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ACT No. XII OF 1891.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st March, 1891.)

An Act to repeal certain Obsolete Enactments and to amend certain other Enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Repealing and Amending Act, 1891.

Title, extent
and com-
mencement.

(2) Save in so far as it applies expressly or by necessary implication to particular territory only, it extends to the whole of British India, inclusive of Upper Burma and British Baluchistan; and

(3) It shall come into force at once.

2. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Enactments
in schedules
repealed and
amended
respectively.

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof; but nothing in this sub-section shall affect any Act passed after this Act comes into force by the Governor of Madras in Council, the Governor of Bombay in Council, the Lieutenant-Governor of Bengal in Council or the Lieutenant-

[Price twelve annas.]

Lieutenant-Governor of the North-Western Provinces and Oudh in Council.

(3) The modifications hereby made in the Foreign Jurisdiction and Extradition Act, 1879, section 6, and the Cantonments Act, 1889, section 19, shall have effect as from the commencement of those Acts respectively. XXI of 1879. XIII of 1889.

Savings.

3. The repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Part I.—Acts of the Governor General in Council.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1895	II	Control of officers in Assam, Arakan and Tenasserim.	So much as has not been repealed.
"	VI	Control of Officers in Khasi Hills and Cachar.	So much as has not been repealed.
"	XIX	Assistant to Agent for Sardárs, Dekkhan.	In section 1, <i>the words</i> and in the trial of such suits the Assistant shall follow the <i>same</i> rules which are now applicable to the Agent <i>and the words and figures</i> under the provisions of Chapter XXII, Regulation IV of 1827 of the Bombay Code.
1836	X	Indigo-contracts	The whole Act, so far as it applies to Assam.
"	XXVI	Camp Police	So much as has not been repealed.
1838	V	Bengal Bonded Warehouse.	<i>The words</i> And it is hereby enacted that, <i>wherever they occur.</i> In sections 3, 5, 7, 8, 9, 10, 17, 18, 20, 22, 23, 24 and 27, <i>the word</i> that <i>wherever it occurs after the word</i> and.

THE FIRST SCHEDULE—*contd.*

Part I.— Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1838	V — <i>contd.</i>	Bengal Bonded Warehouse.	In section 31, <i>the word that where it occurs after the word but.</i>
"	XXV	Wills	In sections 2 to 5, 7 to 29, and 31, <i>the words And it is hereby enacted that.</i>
			In section 2, <i>the words except so far as relates to His Majesty's colonies and plantations in America.</i>
			In sections 3 and 31, <i>the word that wherever it occurs.</i>
			In section 4, <i>the word that where it occurs before the words the power.</i>
			In section 6, <i>the words Provided also and it is hereby enacted that.</i>
			Section 30.
1839	VII	Tahsildárs, Madras.	Section 4.
	XXIV	Ganjam and Vizagapatam.	In section 7, <i>the word fourth.</i>
	XXVII	Execution by the Court of Requests, Calcutta, of decrees of Courts of 24-Pergunnahs.	The whole.
	XXIX	Dower	In sections 2 to 10, 12 and 14, <i>the words And it is hereby further enacted that.</i>

1891.]

Amending Act.• THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd. •*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1839	XXIX — <i>contd.</i>	Dower . .	In section 11, <i>the words</i> and it is hereby further enacted. In section 15, <i>the words</i> And it is hereby provided that. . Section 13.
„	XXX	Inheritance . .	<i>The words</i> And it is hereby further enacted that <i>and</i> And it is hereby further enacted and declared that, <i>wherever they occur.</i> In section 7, <i>the words</i> also that <i>and the word</i> that. In section 13, <i>the words</i> And it is hereby provided that. .
1840	X	Temple of Jagannath.	So much as has not been repealed.
1841	XXIV	Illusory appointments, &c.	Section 4, so far as it relates to section 10 of the Statute 11 George IV & 1 William IV, chapter 47. Section 5, <i>from</i> or any proceedings <i>to the end.</i>
1842	IX	Lease and Release.	So far as it has not been repealed.
1844	VI	Land-customs, Madras.	In the title, <i>the word</i> abolishing, <i>the words</i> transit or <i>and the words</i> for revising the duties on imports and exports by sea, and for determining the price at which salt shall be sold for home consumption.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1846	I	Pleaders . . .	In section 6, <i>the words and figures</i> Section 25, Regulation XXVII, 1814, of the Bengal Code; Section 25, Regulation XIV, 1816, of the Madras Code; and. In section 13, <i>the numerals</i> VII.
1847	IX	Assessment of new lands.	In section 1, <i>the words</i> and that all such investigations pending before the Collectors and Deputy Collectors in the said Provinces at the said date shall forthwith be discontinued.
1848	X	Mandvee . . .	So much as has not been repealed.
"	XVIII	Nawáb of Surat . . .	Section 2. In the schedule, the names and descriptions numbered 1, 2, 3, 5, 6 and 7.
1850	XXV	Forfeited deposits . . .	In the title, <i>the words and figures</i> and Act IV, 1846. In the preamble, <i>the words</i> and judgment-debtors, <i>the words and figures</i> and in Section V, Act IV, 1846, and <i>the words</i> in execution of decrees or.
"	XXXIV	State Prisoners . . .	Section 3.
1853	VI	Summary suits for arrears of rent, &c.	In the preamble, <i>the words and figures</i> from and whereas it is expedient to Act VIII, 1835, and <i>the words</i> from and to prevent to wrong district.

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1853	VIII	Colaba . . .	So much as has not been repealed.
„	XIX	Evidence . . .	In section 26, <i>the words</i> in addition to any proceedings under this Act.
1855	X	Witnesses . . .	In the title, <i>the words and figures</i> and to amend the provisions of Section XL, Act XIX of 1853.
„	XXIV	Penal Servitude . . .	In the title, <i>the words</i> and to amend the law relating to the removal of such convicts. In the preamble, <i>the words</i> and to amend the law relating to the removal of European and American convicts for the purpose of imprisonment.
„	XXXVII	Sonthal Districts . . .	In section 1, clause 1, <i>the words</i> extend to or affect any case now pending in any Court, nor.
1856	XII	Civil Court Ámíns . . .	In the preamble, <i>the words and figures from</i> and <i>whereas to</i> other agency. Section 10, <i>from Whenever to the end.</i>
	XIII	Police . . .	In section 1, <i>the words and figures from</i> Sections XXII <i>to the end.</i> In section 2, definition of “Local Government,” <i>the words</i> in the possession and, <i>the words the East, and the word Company.</i>

THE FIRST SCHEDULE—*contd.*

Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1856	XIII — <i>contd.</i>	Police . . .	In section 3, the <i>words and figure</i> except as is otherwise provided by Section I of this Act. Form B in the schedule of Forms.
„	XVIII	Collector of Calcutta.	In the preamble, <i>the words</i> should have charge of the collection of the stamp-duty within the town of Calcutta, and that he. Section 1. In section 3, <i>the words and figures</i> the said Regulation, or under Act XI of 1849, or.
„	XX	Chaukidárs . . .	In sections 10, 21, 33, 34, 36 and 59, <i>the words</i> of Circuit. Section 60.
„	XXII	Tolls, Karatoyá River.	In section 5, <i>the words and figures</i> Regulation I of 1824, or of.
1857	II	Calcutta University.	In section 1, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
	IV	Tobacco, Bombay Town.	Section 2, <i>from</i> and such duty <i>to the end.</i> Section 5, <i>from</i> The import-duty <i>to the end.</i>
	XIII	Opium . . .	In the preamble, <i>the words</i> that certain obsolete Regulations relating to the provision of opium should be formally repealed, and.

• THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1857	XXI	Howrah . . .	Section 54, the second proviso. Section 58.
„	XXII	Bombay University.	In section 1, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
„	XXV	Forfeiture of property.	In the title, <i>the words</i> to render officers and soldiers in the Native Army liable to forfeiture of property for mutiny, and. In the preamble, <i>the words</i> to render officers and soldiers in the Native Army, who shall be convicted of mutiny, subject to the forfeiture of all their property, and.
„	XXVII	Madras University .	In section 1, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
1858	III	State Prisoners .	Section 4. In section 5, <i>the words</i> in the possession and, <i>the words</i> the East, and <i>the word</i> Company.
„	XXXVII	Nawab of the Carnatic.	The preamble, <i>from</i> and that <i>to</i> commencement of this Act. . . Section 2. Schedules B and C.
1859	IX	Claims to property seized as forfeited.	In the preamble, <i>the words from</i> to make provision <i>to</i> also expedient.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3.	4.
Year.	No.	Subject or title.	Extent of repeal.
1859	X	Rent	The schedule, Forms E and F.
"	XI	Sales of land for arrears of revenue.	Section 4. In section 53, <i>the words and figures</i> sharers in estates under butwarah who may have saved their shares from sale under sections XXXIII and XXXIV, Regulation XIX, 1814, and.
1860	XIV	King of Oudh .	The whole.
	XXII	Hill Tracts of Chittagong.	Section 1, proviso.
	XXIII	Amending Act XXI of 1856 (Abkari).	The whole Act, so far as it applies to Assam.
	XLV	Indian Penal Code .	In section 1, <i>the words and figures</i> on and from the first day of May, 1861. In sections 1 and 15, <i>the words</i> except the Settlement of Prince of Wales' Island, Singapore and Malacca. In sections 2 and 4, <i>the words and figures</i> on or after the said first day of May, 1861. In section 410, <i>the word</i> the, <i>where it occurs after the word</i> which.
1862	VII	King of Oudh .	So much as has not been repealed.
1863	XVI	Spirits used in Manufactures, &c.	Section 8.

1891.]

Amending Act.• THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council.—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1864	XVII	Official Trustees	Section 3.
1865	VII	Government Forests Act, 1865.	The whole Act, so far as it has not been repealed by the Indian Forest Act, 1878, and the Lower Burma Forest Act, 1881.
"	X	Indian Succession Act, 1865.	In section 3, <i>the words</i> other than the Settlement of Prince of Wales' Island, Singapore and Malacca.
1866	XXI	Native Converts' Marriage Dissolution Act, 1866.	In section 35, <i>the words</i> except the Settlement of Prince of Wales' Island, Singapore and Malacca. In the first schedule, <i>the words</i> Rs. two.
"	XXV	Transfer to Government of deposits in High Courts.	In the preamble, <i>the words</i> or in the late Supreme Courts at Calcutta, Madras and Bombay, respectively, <i>and the words</i> now or hereafter. In section 1, <i>the words</i> or of the late Supreme Courts of Calcutta, Madras and Bombay, <i>and the words</i> now or hereafter.
1867	XXII	Sarais Act, 1867	Section 1. In section 17, <i>the words</i> and the Settlement of Prince of Wales' Island, Singapore and Malacca.
"	XXIII	Murderous Outrages, Punjab.	Section 17.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1867	XXV	Printing Presses and Books.	In section 1, <i>the words</i> other than the Settlement of Prince of Wales' Island, Singapore and Malacca.
1868	I	General Clauses Act, 1868.	In section 2, clause (8), <i>the words</i> other than the Settlement of Prince of Wales' Island, Singapore and Malacca.
"	V	Commissioner in Sindh.	The schedule, so far as it relates to Act XXVI of 1850.
"	XVIII	Small Cause Jurisdiction, Nilgiris.	So much as has not been repealed.
"	XXI	Nawáb of the Carnatic.	The whole.
1869	XIV	Bombay Civil Courts Act, 1869.	In section 32, proviso, clause (b) [added by Act XV of 1880, section 3], <i>the words and figures</i> or selected under Act No. XX of 1864 (<i>for making better provision for the care of the persons and property of minors in the Presidency of Bombay</i>), section 9, and <i>the words</i> or selection.
1870	VII	Court-fees Act, 1870	In section 3, <i>the word</i> sixteen. In section 7, paragraph iv, last clause, <i>the words</i> and the provisions of the Code of Civil Procedure, section thirty-one, shall apply as if for the word 'claim' the words 'relief sought' were substituted.

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1870	VII — <i>contd.</i>	Court-fees Act, 1870	Section 10, clause iii. Section 19, clause ii. In section 19C (inserted by Act XIII of 1875, section 6), first line, <i>the word</i> such. In section 19G (inserted by Act XIII of 1875, section 6), <i>the words and figures</i> after the first day of April, 1875, or. Sections 24 and 32. Schedule II, Articles 8 and 9.
	XXI	Hindu Wills Act, 1870.	In section 6, <i>the words</i> and Parts.
	XXVI	Prisons Act, 1870 .	In section 9, <i>the words</i> (subject to the approval of the Governor General of India in Council).
	XXVII	Amending the Indian Penal Code.	Sections 7, 9 and 14.
	II	Extending the Prisons Act, 1870, to Coorg.	So much as has not been repealed.
1871	IV	Coroners' Act, 1871 .	Section 4, the second paragraph.
	XXI	Dehrá Dun .	Section 1, <i>from</i> and no judgment <i>to the end</i> . In section 2, <i>the words</i> and shall be deemed to have been heretofore authorized to exercise.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1871	XXI — <i>contd.</i>	Dehrá Dun . . .	In section 3, <i>the words</i> shall be deemed to have been heretofore the District Court of the said district of Dehrá Dun, and, <i>and the words and figures</i> and may, subject to the provisions of Act VI of 1871, hear appeals from decisions given in the said district before the passing of this Act. In section 4, <i>the words and figures</i> and referred to in section eleven of Act XXIV of 1864.
	XXII	Amending Act XX of 1856 (Chauki-dárs).	Section 5. In section 6, <i>the words</i> but shall not take effect within the territories subject to the Lieutenant-Governor of Bengal.
	XXIII	Pensions Act, 1871.	Section 1, <i>from</i> but not so as to affect <i>to the end</i> .
	XXVI	Land Improvement Act, 1871.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
1872	IV	Punjab Laws Act, 1872.	Section 33. Section 39G (inserted by Act XV of 1875, section 2). The first schedule, so far as it relates to Act XVII of 1861.

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1872	XV	Indian Christian Marriage Act, 1872.	In section 68 (as amended by Act II of 1891, section 6), <i>the words — “and to amend the law relating to the removal of such convicts.”</i>
1873	III	Madras Civil Courts Act, 1873.	In section 13, <i>the words and figures</i> or appeals under Madras Regulation XI of 1832, section nine. Section 29, the second and third paragraphs.
”	IV	Punjab Municipal Act, 1873.	So far as it has not been repealed.
”	V	Government Savings Banks Act, 1873.	In section 5, <i>the words</i> the said.
”	XVI	North-Western Provinces Village and Road Police Act, 1873.	In section 1, <i>the words and figures</i> So far as regards the repeal of Act No. III of 1869, this Act extends to the whole of British India: the rest of.
”	XIX	North-Western Provinces Land-revenue Act, 1873.	Section 2, the third paragraph.
”	XX	Prince of Arcot's Privilege Act, 1873.	The whole.
1874	I	Quieting of titles, North - Western Provinces.	The whole.
”	III	Married Women's Property Act, 1874.	In section 9, <i>the words</i> affect any suit instituted before the passing of this Act, nor.

THE FIRST SCHEDULE—*contd.*

Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1874	VIII	Exercise of Powers in Assam.	Section 3.
„	XIV	Scheduled Districts Act, 1874.	In section 10, <i>the words and figures</i> and No. XXV of 1869. In the first schedule, Part I, No. I, <i>the figure and words</i> (9) the Chighatti Maliah. The first schedule, Part XIII.
	XV	Laws Local Extent Act, 1874.	Section 8, clause (f). The first schedule, so far as it relates to Acts IX of 1842, XVIII of 1854, VIII of 1859, XIV of 1859, XV of 1859, XXIII of 1861, VI of 1863, X of 1866 and X of 1868. The second schedule, so far as it relates to Madras Regulations III of 1802, section 11, I of 1805, II of 1807, IV of 1816, IX of 1816 and XIV of 1816 and Acts XVII of 1840, VII of 1852 and XI of 1869. The third schedule, so far as it relates to Bombay Regulations XII of 1827, preamble, XVI of 1827 and XXI of 1827 and Acts XI of 1843, III of 1852 and XXI of 1852.

THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—con.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1874	XV — <i>contd.</i>	Laws Local Extent Act, 1874.	The fourth schedule, so far as it relates to Bengal Regulations XLVIII of 1793, III of 1794, section 12, XV of 1797, I of 1798, XVII of 1806, XI of 1811, XIX of 1814, XX of 1817, sections 28 and 32, and VI of 1819 and Acts XX of 1836, XI of 1838, XX of 1856, XXI of 1856 and XXIII of 1860. The fifth schedule, so far as it relates to Bengal Regulations I of 1798, XVII of 1806, XIX of 1810, V of 1817, VI of 1819, VI of 1831 and XI of 1831, sections 4 and 8. In the sixth schedule, Part I, No. I, the <i>figure and words</i> (9) the Chighatti Maliah. The sixth schedule, Part XIII.
1875	XIII	Probates and Letters of Administration.	Section 1. So much of section 6 as directs the insertion of section 19H in the Court-fees Act, 1870.
	XV	Punjab Laws Amendment Act, 1875.	Section 2, so far as it applies to the Punjab and relates to sections 39A and 39B. Section 2, so far as it relates to section 39G.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—*contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1875	XX	Central Provinces Laws Act, 1875.	Section 2, proviso. In the third column of Part A of the schedule, in the entry opposite Regulation XI of 1806, <i>the words and figures</i> and with the exception, in section VIII, of <i>the words and figures</i> "under the rules prescribed by Regulation V, 1804." The schedule, so far as it relates to Bengal Regulation VI of 1819 and Act XVIII of 1853.
1876	X	Bomlay Revenue Jurisdiction Act, 1876.	Section 2, and the schedule referred to therein.
"	XII	Repealing Act, 1876.	The whole.
"	XVII	Oudh Land-revenue Act, 1876.	In section 150, <i>the words</i> stamped or. Section 178, clause (p).
"	XVIII	Oudh Laws Act, 1876.	Sections 17, 18 and 41. In the third column of Part I of the second schedule, in the modifications of Regulation XXXIII of 1803, <i>the words</i> for "city" read "jurisdiction," and <i>the words and figures</i> in section IV, omit the words "or in either of the cities of Patna, Dacca or Moorshedabad."

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1876	XVIII — <i>contd.</i>	Oudh Laws Act, 1876.	In the third column of Part I of the second schedule, in the modifications of section 8 of Regulation XI of 1806, <i>the words and figures</i> and omit the words and figures “(under the rules prescribed by Regulation V, 1804)” and “in Regulation XXVII, 1803.” The second schedule, so far as it relates to Bengal Regulation VI of 1819 and Act XIII of 1857, section 2.
„	XXI	Amending the Land Improvement Act, 1871.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
„	XXIII	Opium Act, 1876 .	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
1877	I	Specific Relief Act, 1877.	Section 2. In section 9, <i>the words</i> instituted within six months from the date of the dispossession. The schedule.
	II	Amending Act XIII of 1875 (Probates and Letters of Administration).	Section 2.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1877	III	Indian Registration Act, 1877.	Section 84, the last paragraph.
"	VI	Postponing operation of the Opium Act, 1876.	The whole Act, so far as it applies to the Andaman and Nicobar Islands and the Pargana of Manpur.
"	XI	Military Lunatics Act, 1877.	Sections 2 and 9.
"	XV	Indian Limitation Act, 1877.	Section 2, down to the word But. Section 2, the third paragraph. The first schedule.
"	XIX	District Judges	In the preamble, <i>the words</i> the District Judges of the Lower and the North-Western Provinces of the Presidency of Fort William, and.
1878	I	Opium Act, 1878	Section 2, the first and second paragraphs. The schedule.
"	VI	Indian Treasure-trove Act, 1878.	Section 2. The schedule.
"	XI	Indian Arms Act, 1878.	Sections 8 and 9. Section 14, the last three paragraphs. The second schedule.

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1878	XII	Amending the Punjab Laws Act, 1872.	Section 6. Section 7, <i>from All penalties to the end.</i>
"	XIV	Assimilation of Powers, North-Western Provinces and Oudh.	In the preamble, <i>the words</i> and whereas doubts have arisen as to the validity of certain acts done since the said union, and it is expedient to remove such doubts. Section 4, the first paragraph. Section 5, the first paragraph. Sections 7 and 8.
"	XVII	Northern India Ferries Act, 1878.	Section 36.
1879	I	Indian Stamp Act, 1879.	Section 2, <i>down to the word But.</i> Schedule II, Article 2, clauses (b) and (c). Schedule II, Article 10. Schedule II, Article 11, clause (b). Schedule III.
"	III	Destruction of Records Act, 1879.	Section 9. The schedule.
"	VII	Punjab Additional Financial Commissioner's Act, 1879.	The whole.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1879	XII	Amending the Code of Civil Procedure, the Registration Act, 1877, and the Limitation Act, 1877.	In the title, <i>the words</i> the Code of Civil Procedure. The first preamble. Section 108, so far as it refers to Nos. 171, 171A, 171B and 171C of the second schedule to the Indian Limitation Act, 1877.
"	XVII	Dekkhan Agriculturists' Relief Act, 1879.	Section 48, the second paragraph (inserted by Act XXIII of 1881, section 10).
"	XIX	Raipur and Khatra Laws Act, 1879.	Section 3.
"	XX	Glanders and Farey Act, 1879.	Section 15.
1880	VII	Indian Merchant Shipping Act, 1880.	In section 72 (as amended by Act VI of 1891, section 6), <i>the word</i> But.
"	IX	Bombay Civil Courts Act, 1880.	Section 3.
"	XIV	Indian Census Act, 1880.	The whole.
"	XV	Bombay Revenue Jurisdiction Act, 1880.	The preamble <i>from</i> and to make <i>to</i> 1871.
1881	II	Pegu and Sittang Canal Act, 1881.	Section 22.

THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor-General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1881	V	Probate and Administration Act, 1881.	In section 152, <i>the words the said.</i>
"	IX	Administrator General's Act, 1881.	So much of section 5 as has not been repealed. Section 6, <i>from and the words to the end.</i>
"	XIII	Fort William Act, 1881.	Section 9.
"	XIV	Benares Family Domains Act, 1881.	Sections 2 and 14.
"	XVIII	Central Provinces Land-revenue Act, 1881.	Sections 2 and 3. Section 136W (inserted by Act XVI of 1889, section 26). The schedule.
"	XIX	Lower Burma Forest Act, 1881.	Section 2. The schedule.
"	XXIII	Dekkhan Agriculturists' Relief Act, 1881.	Sections 4, 5 and 16.
"	XXV	Banki Laws Act, 1881.	Section 3. In section 4, <i>the words and figures from And in the following Bengal Regulations to the end.</i>

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1881	XXVI	Negotiable Instruments Act, 1881.	Section 2. — The schedule.
1882	I	Inland Emigration Act, 1882.	Section 2, the first paragraph. In section 2, second paragraph, <i>the words</i> the said.
			Section 193.
„	II	Indian Trusts Act, 1882.	Section 36, the second paragraph. In the schedule, <i>the figures</i> 39.
„	III	Seditious Publications Act, 1882.	Section 2.
„	VII	Powers-of-attorney Act, 1882.	Section 6.
„	X	Code of Criminal Procedure, 1882.	Section 311. In section 549, <i>the figures</i> 1881, <i>in both places in which they occur.</i>
			Section 558.
„	XII	Indian Salt Act, 1882.	In section 11, <i>the words and figures</i> or under section 11 of the In- land Customs Act, 1875.
„	XIV	Code of Civil Procedure.	Section 539, the last paragraph.
„	XV	Presidency Small Cause Courts Act, 1882.	In section 1, <i>the figures</i> 1881.

THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1882	XIX	Punjab University Act, 1882.	Section 22.
"	XXII	Dekkhan Agriculturists' Relief Act, 1882.	Sections 17 and 19.
1883	III	Repealing Act XXVII of 1854 (Názim of Bengal).	The whole.
"	V	Indian Merchant Shipping Act, 1883.	In section 2, sub-section (2), <i>the words</i> proceedings commenced <i>and the word</i> commenced.
"	VII	Repealing the Lower Burma Labour Law, 1876.	The whole.
"	VIII	Little Cocos and Preparis Islands Laws Act, 1883.	Section 3.
"	IX	Central Provinces Tenancy Act, 1883.	Section 1, the last paragraph, <i>beginning with</i> Nevertheless. Section 2. The schedule.
"	XIII	Indus Valley State Railway Lands.	Section 1.
"	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	Sections 57 and 60.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1883	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	Section 5, <i>from</i> and shall to the end.
"	XIX	Land Improvement Loans Act, 1883.	Section 12, sub-section (2).
1884	I	Honorary Degrees .	Section 1.
"	II	Unregistered instruments of partition, Madras.	In section 2, proviso, <i>the words</i> within three years after the date on which this Act comes into force, or <i>and the words</i> if the transfer is made after this Act comes into force.
"	III	Criminal Procedure Code Amendment Act, 1884.	Section 6.
"	IV	Indian Explosives Act, 1884.	Section 2, sub-section (2).
"	V	Amending the Chutia Nagpur Encumbered Estates Act, 1876.	Section 8, clause (a). Section 10.
"	VI	Inland Steam-vessels Act, 1884.	In section 3, sub-section (2), <i>the words</i> proceedings commenced <i>and the word</i> commenced.
"	VII	Indian Steam-ships Act, 1884.	Section 2, sub-section (2).

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1884	VIII	Repealing Bengal Regulation XIX of 1810 in the North-Western Provinces.	The whole.
"	IX	Legal Practitioners' Act, 1884.	Section 10, sub-section (2).
"	XIV	Validation of Settlement-officers' Decisions, Punjab.	The whole.
"	XX	Amending the Indian Salt Act, 1882.	The whole.
"	XVII	Lower Burma Municipal Act, 1884.	Section 5, <i>from and shall to the end of clause (b).</i>
"	XVIII	Punjab Courts Act, 1884.	Section 14, clauses (a) and (b). Section 1, sub-section (4). Sections 2, 68 and 69. The schedule.
"	XIX	Rangoon Waterworks Act, 1884.	Section 1, sub-section (3).
"	XXI	Straits Settlements Emigration.	The whole.
1885	II	Negotiable Instruments Act, 1885.	Section 7. Section 8, clause (b), and the word and at the end of clause (a).

THE FIRST SCHEDULE—*contd.*

• *Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1885	VII	Páñch Máháls Laws Act, 1885.	Section 4 <i>from</i> and in Part II <i>to the end.</i>
"	IX	Tariff; Excise; Sea-customs.	In the title and preamble, <i>the words and figures</i> to repeal part of section 6 of the Indian Tariff Act, 1882, and. Section 1.
"	XII	Indian Sea Passengers' Act, 1885.	Section 2.
"	XVI	Central Provinces Civil Courts Act, 1885.	Section 1, sub-section (4). Sections 24 and 25.
"	XVII	Central Provinces Government Wards Act, 1885.	Section 2.
"	XX	Postponing temporarily the operation of certain provisions of the Bengal Tenancy Act, 1885.	The whole.
1886	II	License-tax Amendment.	Section 1, sub-section (3). The second schedule, Part III, clause (b).
"	IV	Amending the Indian Contract Act, 1872.	Section 2.
"	V	Mirzapur Stone Mahál Act, 1886.	Section 1, sub-section (3). Sections 2 and 19.

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part. I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1886	VI	Births, Deaths and Marriages Registration Act, 1886.	Section 1, sub-section (3).
"	X	Amending the Code of Criminal Procedure, 1882, &c.	Section 20. Section 24, sub-section (2).
"	XIII	Indian Securities Act, 1886.	Section 1, sub-section (3).
"	XIV	North-Western Provinces Rent Act, 1886.	Section 6. In section 7, <i>the words</i> the word "other" is repealed; and in <i>and the words</i> of the same section.
"	XVIII	Amending Act XXXVI of 1858 (Lunatic Asylums).	Section 3, so far as it relates to section 17A.
"	XX	Upper Burma Laws Act, 1886.	In section 1, sub-section (2), <i>the words</i> within four months from the passing of the Act. Section 5. The first schedule. The second schedule, First Part, so far as it relates to Act V of 1881, section 153.
"	XXII	Oudh Rent Act, 1886.	Section 1, sub-section (4).
"	XXIII	Dekkhan Agriculturists' Relief Act, 1886.	Section 10, sub-sections (1) and (2).

THE FIRST SCHEDULE—*contd.*

Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal
1886	XXIII — <i>contd.</i>	Dekkhan Agriculturists' Relief Act, 1886.	Section 12, sub-section (2). Section 13.
"	XXIV	Extension of the Glanders and Farcy Act, 1879, to Bombay.	The whole.
1887	II	Sea-customs; Excise; Tariff.	Sections 7 and 9.
"	IV	Indian Museum Act, 1887.	Section 2.
"	VII	Suits Valuation Act, 1887.	Section 10.
"	VIII	Abolishing Military Courts of Requests.	The whole.
"	IX	Provincial Small Cause Courts Act, 1887.	Section 2, <i>down to the word But</i> . In section 17, sub-section (1), <i>the words as amended by this Act</i> . The first schedule.
"	XII	Bengal, North-Western Provinces and Assam Civil Courts Act, 1887.	Section 2, <i>down to the word But</i> .
"	XVI	Punjab Tenancy Act, 1887.	Sections 2 and 3. Section 4, clause (11), sub-clause (a). The schedule.

THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2 •	3	4 •
Year.	No.	Subject or title.	Extent of repeal.
1887	XVII	Punjab Land-revenue Act, 1887.	Section 1, sub-section (4). Section 3, clause (9), sub-clause (a).
1888	VI	Debtors Act, 1888.	Section 9.
„	VII	Civil Procedure Code Amendment Act, 1888.	Sections 4, 25, 29 and 41. Section 49, sub-section (1). Section 50. Section 52, sub-section (1). Sections 56 and 57. In section 65, sub-section (3), the words “the Code of Civil Procedure.” Section 66, sub-section (2).
	VIII	Tolls	In section 5, the words the words “and the Governor of the Presidency of Bombay in Council” are hereby repealed, and.
	IX	Repealing enactments relating to contagious diseases.	The whole.
	X	Amending the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.	Section 4. .

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1888	XIII	Punjab Courts Act, 1888.	Section 3.
"	XVI	Repealing Act VII of 1867 and Madras Regulation XIV of 1832.	The whole.
"	XIX	Amending the Lower Burma Municipal Act, 1884.	Section 3.
1889	V	Coroner of Madras .	Section 3, sub-section (2). Section 4, sub-section (1).
"	VI	Probate and Administration Act, 1889.	Section 9, sub-section (2). Section 18, sub-section (1). Section 21.
"	XI	Lower Burma Courts Act, 1889.	The first and second schedules, so far as they relate to Regulation VII of 1836.
"	XII	Amending the Indian Merchandise Marks Act, 1889.	The whole.
"	XIII	Cantonments Act, 1889.	In sections 3, 21 and 26, the figures 1881, wherever they occur.

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1889	XVI	Central Provinces Land-revenue Act, 1889.	Section 3. In section 26, <i>the words and figures</i> Section 136 is hereby repealed, and. Section 26, so far as it relates to section 136W. Section 29, sub-section (2), <i>from</i> and the last <i>to the end</i> . Sections 30, 31 and 36.
"	XVII	Central Provinces Tenancy Act, 1889.	Section 3.
"	XX	Amending Act XXXVI of 1858 (Lunatic Asylums).	Section 3.
1890	II	Amending Act XVII of 1864, &c.	Section 11, sub-section (2).
"	III	Amending the In-land Steam-vessels Act, 1884, and the Indian Steam-ships Act, 1884.	Section 3. Section 4, sub-section (1). Sections 5 and 16. Section 17, sub-section (1). Section 18.
"	V	Forest Act, 1890	Section 21.

THE FIRST SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1890	X	Amending Act XXV of 1867 (Printing-presses and Books).	Sections 1, 2 and 7.
"	XVIII	Amending the Indian Emigration Act, 1883.	Section 6.
"	XIX	Amending the Indian Salt Act, 1882.	Section 5, and the preamble prefixed thereto.
"	XX	North-Western Provinces and Oudh. Act, 1890.	Section 17. Section 21, sub-section (2). Section 35. Section 43, <i>from</i> and the word "Oudh" <i>to the end</i> . Sections 48, 50 and 56.
1891	II	Amending the Indian Christian Marriage Act, 1872.	Section 1, sub-section (4). Section 4, sub-section (2).
	IV	Amending the Code of Criminal Procedure, 1882.	Sections 1 and 3.
	VI	Amending certain Acts respecting Indian Merchant Shipping.	Section 12.

1891.]

*Amending Act.*THE FIRST SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—concl'd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1891	VII	Amending Act X of 1841.	Section 1. In section 5, <i>the words</i> the words “or the East India Company” are hereby repealed, and. Section 6, sub-section (1). In section 8, <i>the words</i> the words “issued under the Company’s seal and” are hereby repealed, and.

Part II.—Acts of the Lieutenant-Governor of Bengal in Council.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
1866	I	Amending Bengal Regulation VI of 1819 (Ferries).	The whole Act, so far as it applies to Assam.
„	V	Hackney Carriages.	The whole Act, so far as it applies to Assam.
1867	II	Gambling . . .	The whole Act, so far as it applies to Assam. . .
1875	V	Bengal Survey Act, 1875.	The whole Act, so far as it applies to Assam.

THE FIRST SCHEDULE—*contd.*

Part III.—*Regulations of the Bengal Code.*

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1793	XIX	Title to Non-bád-sháhi Lákhiráj Grants.	In section 4, <i>the word and figures</i> and XXI.
"	XXXVIII	Loans by Civil Servants.	The title, <i>from</i> and for re-enacting <i>to the end.</i> Section 1, <i>from</i> From a regard to remained in force.
1794	III	Revenue arrears	In the title, <i>the words</i> for exempting proprietors of land (with certain exceptions) from being confined for arrears of revenue; and <i>and the words</i> and for expediting the trial of causes relating to the public revenue or the rents of individuals.
1795	I	Benares Permanent Settlement.	The title, <i>from</i> and for extending <i>to</i> 1793.
"	XV	Referring cases to Raja of Benares.	The title, <i>from</i> for extending <i>to</i> Section X; and.
"	XXVII	Benares Permanent Settlement.	The title, <i>from</i> and for continuing <i>to</i> functions.
1799	I	Trade on Sylhet Frontier.	So much as has not been repealed.
"	V	Wills and Intestacies.	In the title, <i>the words</i> and City.
1800	VIII	Registers of estates.	The title, <i>from</i> preparing <i>to</i> prescribed.

THE FIRST SCHEDULE—*contd.*Part III.—*Regulations of the Bengal Code—contd.*

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1801	I	Division of joint estates.	The title, <i>from</i> to explain and amend part to such sales, <i>from</i> contained in Regulation XXV, 1793, to Regulation XXVI, 1795), and <i>from</i> and to fix to the end. In section 8, <i>the words and figures</i> by clause First of Section XXIX, Regulation VII, 1799, or any other Regulation. In section 14, <i>the words and figures</i> from The rules contained in to affected by this Regulation, <i>the words</i> It is further hereby declared that, and <i>the words and figures</i> from This declaration to portions thereof.
1804	X	State-offences	In section 2, <i>the words</i> declared to be. In section 3, <i>the words</i> It is hereby further declared that.
1805	XII	Settlement, Cuttack.	In section 30, <i>the words and figures</i> from The rules to this Regulation, <i>the words</i> Provided however that, <i>the words and figures</i> under Section IV, Regulation XXIV, 1793, and <i>the word</i> likewise.
1806	XI	Assistance to marching troops and to travellers.	The title, <i>from</i> and <i>for</i> extending to the end. Section 1, <i>from</i> And whereas it is further necessary to Section XII, Regulation I, 1804.

THE FIRST SCHEDULE—*contd.*

Part III.—Regulations of the Bengal Code—contd.

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1806	XI — <i>contd.</i>	Assistance to marching troops and to travellers.	In section 8, <i>the words and figures</i> (under the rules prescribed by Regulation V, 1804).
1812	XVIII	Leases; Apportionment of Assessment on partition.	In section 3, clause <i>Second</i> , <i>the words and figures</i> and Section VII, Regulation XXVII, 1795.
"	XXII	Territories bordering on Bandelkhand.	The title, <i>from</i> and for annexing to Calenger. Section 1. In section 2, <i>the words</i> Ditto of Rajah Kisseree Sing, the Rajah of Jeytpore, <i>the words</i> Ditto of Chobey Salligram, jaghiredar of Cusbah Poorwah, &c., and <i>the words</i> Ditto of Pursram Bahadur, jaghiredar of Khuddee, &c. Sections 3 and 4.
1816	V	Kánúngos . . .	The whole Regulation, so far as it applies to Assam.
1817	XII	Patwaris . . .	In section 32, <i>the words</i> reporting, however, the amount for the information of the Governor General in Council and <i>the words</i> when confirmed by Government. The whole Regulation, so far as it applies to Assam.
"	XX	Police . . .	The title, <i>from</i> for modifying ^{as} to the end.

THE FIRST SCHEDULE—*contd.**Part III.—Regulations of the Bengal Code—contd.*

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1817	XX — <i>contd.</i>	Police . . .	In the heading prefixed to section 30, <i>the word badges and the words</i> and insane persons. Forms Nos. 1, 4, 5, 7, 9 to 12 and 15 to 21 in the Appendix.
1819	I	Kánúngos and Pat-wáris.	The title, <i>from</i> for replacing to Gorakhpur. Section 4, clause <i>Fifth</i> , <i>from anything to the end.</i> The whole Regulation, so far as it applies to Assam.
	II	Resumption of revenue-free lands.	In section 4, <i>the words and figures</i> and Regulations XLI and XLII of 1795, Regulations XXXI and XXXVI of 1803, Regulations VIII, <i>and the words and figures from</i> nor to alter <i>to the end.</i> In section 12, <i>the figures</i> XXVI. Section 29.
	VIII	Patni Taluqs .	The title, <i>from</i> and to explain <i>to the end.</i> The preamble, <i>from</i> It has been likewise deemed advisable to de- faulters.
1821	IV	Powers of Collectors and Magistrates.	The title, <i>from</i> for authorising a Collector <i>to</i> Also.
1822	VII	Settlement, Cut-tack, &c.	The title, <i>from</i> for continuing <i>to</i> five years.

THE FIRST SCHEDULE—*contd.*

Part III.—*Regulations of the Bengal Code—contd.*

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1822	XI	Non-liability of Government for errors of Courts, &c.	The title, <i>from</i> for modifying to arrears of revenue.
1823	VI	Indigo-contracts	The preamble, <i>from</i> Under the rules to drawing up the agreement. In section 3, clause <i>Fourth</i>, the words or other officer. In section 3, clause <i>Fifth</i>, the words or other tribunal trying the case. In section 3, clauses <i>Sixth</i>, <i>Seventh</i> and <i>Ninth</i>, the words or other officer trying the case. In section 3, clause <i>Ninth</i>, the words or other person trying the case. The whole Regulation, so far as it applies to Assam.
1825	IX	Defaulting mal-guzars.	The preamble, <i>from</i> and whereas the rules to sanctioned by Government. In section 2, clause <i>First</i>, the words and figures and Regulations II and XXII, 1795. In section 3, the words and Benares. Section 8, <i>from</i> Section XI, Regulation XXXI, 1803, to Conquered Provinces. Section 9.

1891.]

Amending Act.

THE FIRST SCHEDULE—concl'd.

Part III.—Regulations of the Bengal Code—concl'd.

1	2	3	4
Year.	No.	Subject.	Extent of repeal.
1825	XIII	Settlement of resumed Lakhiraj land.	In section 2, <i>the figures and words</i> IV, 1808, Regulations II and. In section 4, <i>the words and figures</i> or the second clause of Section VII, Regulation XLI, 1795, in the province of Benares. In section 5, <i>the figures and word</i> XLII, 1795, and XXXVI, 1803.
1830	V	Indigo-contracts .	The title, <i>from</i> for amending to contracts. The preamble, <i>down to</i> indigo crops ; and. The whole Regulation, so far as it applies to Assam.
1831	VI	Sadr Adalat .	So much as has not been repealed.
„	XI	Police-powers of Tahsildárs.	The preamble, <i>from</i> Whereas by Regulation IV, 1821, to Magistrates ; and <i>and from</i> and where-as it is expedient to police officers.

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Part I.—Acts of the Governor General in Council.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1835	XIX	Assistant to Agent for Sardárs, Dekkhan.	<i>Add the following section :—</i> 2. The provisions of the Code of Procedure in Civil Procedure appeals to Governor of Bombay relating to a High Court from decrees passed in appeal shall apply, so far as may be, to appeals to the Governor in Council under this Act.
1839	VII	Tahsildárs, Madras.	In section 6, <i>for</i> the three last preceding sections <i>read</i> sections 3 and 5.
1846	I	Pleaders	In section 7, <i>for</i> the sections of Regulations <i>read</i> the section of the Regulation.
1850	XIX	Binding Apprentices.	In section 11, <i>for</i> section VIII <i>read</i> section 9. In section 20, <i>for</i> and, <i>where</i> the word occurs <i>before</i> administrators, <i>read</i> or.
1851	XII	Land-revenue, Madras Town.	In the preamble and section 1, <i>for</i> within the limits of the Town of Madras as defined in Section XII, Regulation II of 1802 of the Madras Code <i>read</i> within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Madras.

THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1856	VIII	Control of Gaols .	In the title and preamble, <i>for</i> Presidencies of Fort St. George and Bombay <i>read</i> Presidency of Bombay. In section 2, <i>for</i> each of the said Presidencies <i>read</i> the said Presidency.
„	XX	Chaukidárs .	In section 38 (as amended by Act XXII of 1871, section 3), <i>for</i> Commissioners of Circuit <i>read</i> Commissioner.
1857	XXV	Forfeiture of property.	In section 2, <i>for</i> by this Act, or Act XI of 1857, or Act XIV of 1857, or Act XVI of 1857, <i>read</i> by the Indian Penal Code, section 121 or section 122, or the Indian Articles of War, Article 24.
1858	XXXVII	Nawáb of the Carnatic.	<i>For the list of names in Schedule A, read the following :—</i> 1. Her Highness Nawáb Khair-un-Nissa Begam. 2. Nawáb Ahmad-un-Nissa Begam. 3. Nawáb Qadiriá Begam. 4. Rahim-un-Nissa Begam. 5. Ámmak-ul-Ali Aliyat-un-Nissa Begam.

THE SECOND SCHEDULE—contd.

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1859	I	Merchant Seamen .	In section 62, for Act XX of 1841 (<i>for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons</i>) read the Succession Certificate Act, 1889. In section 115, for Sections XXI and XXII of this Act read Chapter IV of the Indian Merchant Shipping Act, 1883, and section 22 of this Act.
1860	XXVIII	Boundary-marks, Madras.	In section 4, for the words and figures from in the same manner to the end, read in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
„	XLV	Indian Penal Code .	In section 307, Illustration (c), after of insert the first paragraph of.
1863	XX	Religious Endowments.	In section 3, for Section I read the preamble to this Act.
1864	III	Foreigners . .	In section 24, for the words and figures from according to the end, read be recovered in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
1865	X	Indian Succession Act, 1865.	In section 242, after is insert or are.

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*Amending Act.*THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1867	III	Gambling . . .	In the preamble, <i>after</i> Fort William <i>insert</i> and. In section 2, <i>for</i> Sections 13, 17 and 18 <i>read</i> Sections 13 and 17.
"	XXIII	Murderous Outrages, Punjab.	In section 10, <i>for</i> the Punjab Chief Court Act, 1866, <i>read</i> in any other enactment for the time being in force.
"	XXV	Printing Presses and Books.	In section 3, <i>before</i> of the publisher <i>insert</i> the name.
1868	V	Commissioner in Sindh.	In the schedule, <i>for</i> Act VII of 1854 (for the apprehension within the territories under the Government of the East India Company of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the execution of warrants in places out of the jurisdiction of the authorities issuing them) <i>read</i> The Foreign Jurisdiction and Extradition Act, 1879; <i>and for</i> Act VII of 1865 (to give effect to rules for the management and preservation of Government forests) <i>read</i> The Indian Forest Act, 1878.
1869	V	Indian Articles of War.	In Part I, clause (c), <i>for</i> or any Act <i>read</i> in any Act. In the heading to Article 170, <i>for</i> "committed" <i>read</i> "of which any person is accused."

THE SECOND SCHEDULE—*contd.*

Part I.—*Acts of the Governor General in Council.—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1869	XX	Indian Volunteers' Act, 1869.	In section 22, <i>for the words from if for offences committed outside to the end, read in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.</i>
1870	VII	Court-fees Act, 1870.	<i>For section 34 read the following:—</i> 34. (1) The Local Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and remuneration of such persons. (2) All such rules shall be published in the local official Gazette, and shall thereupon have the force of law. (3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both. In Schedule I, Article 2, <i>for Act No. XIV of 1859 (to provide for the limitation of suits), section 15, read the Specific Relief Act, 1877, section 9.</i>

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*Amending Act.*THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1870	VII — <i>contd.</i>	Court-fees Act, 1870	In Schedule II, Article 4, <i>for</i> Bombay Act No. V of 1864 <i>(to give Mamlatdars' Courts jurisdiction in certain cases to maintain existing possession or to restore possession to any party dispossessed otherwise than by course of law)</i> read the Mamlatdars' Courts Act, 1876.
„	XXIV	Oudh Taluqdárs' Relief Act.	In section 12, <i>for the words</i> section three, <i>in the second place in which they occur,</i> read section 4.
„	XXVI	Prisons Act, 1870 .	In the preamble, <i>for</i> and British Burma read Coorg and Burma. In section 6, first paragraph (as amended by Act XIV of 1878), <i>for</i> and British Burma read Coorg and Burma. In section 47, clause (2), <i>for</i> assaults read assault.
„	XXVII	Amending the Indian Penal Code.	In section 13, <i>for the said</i> sections 124A and 225A read sections 124A, 225A and 225B.
1871	V	Prisoners' Act, 1871	In section 13, <i>for</i> section eight of Act No. XXIII of 1861 <i>(to amend Act VIII of 1859)</i> read section 350 of the Code of Civil Procedure, <i>and for the provisions as to deposit of fees and as to release on security contained in the same section,</i> read the provisions as to release on security contained in section 349 of the same Code.

THE SECOND SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1872	IV	Punjab Laws Act, 1872.	In section 12 (as amended by Act XII of 1878, section 2), <i>for</i> the Punjab Tenancy Act, 1868, section 34, <i>read</i> the Punjab Tenancy Act, 1887, section 53. In section 50 (as amended by Act XV of 1875, section 3), <i>for</i> sections forty-three to forty-nine <i>read</i> sections 43 to 48.
"	V	Jurisdiction over Sindh.	In section 2 (added by Act XX of 1872), <i>for</i> the Administrator General's Act, 1867, <i>read</i> the Administrator General's Act, 1874.
"	IX	Indian Contract Act, 1872.	In section 25, clause (1), <i>for</i> assurances <i>read</i> documents. In section 43, first paragraph, <i>for</i> one <i>read</i> one or more. In section 63, Illustration (e), <i>for</i> compensation <i>read</i> composition.
"	XV	Indian Christian Marriage Act, 1872.	In section 4, <i>after</i> is <i>insert</i> or are. In Schedule III, <i>for</i> (See section 28) <i>read</i> (See sections 28 and 31).
1873	VIII	Northern India Canal and Drainage Act, 1873.	In section 75, clause (3), <i>after</i> whom <i>insert</i> and.
1874	II	Administrator General's Act, 1874.	In section 15, <i>after</i> hereafter <i>insert</i> to.

THE SECOND SCHEDULE—*contd.*Part I.—*Acts of the Governor General in Council.*—*contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1874	IX	European Vagrancy Act, 1874.	In section 26, <i>for the words from</i> if for offences committed outside <i>to time being read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.
„	XIV	Scheduled Districts Act, 1874.	<i>After section 5 insert the following section :—</i> 5A. In declaring an enactment in force in a scheduled district or part thereof under section 3 of this Act, or in extending an enactment to a scheduled district or part thereof under section 5 of this Act, the Local Government, with the previous sanction of the Governor General in Council, may declare the operation of the enactment to be subject to such restrictions and modifications as that Government thinks fit. In the first schedule, Part I, No. II, <i>for</i> (7) The Konda Muttá of Belgám <i>read</i> (7) The Konda Muttá of Merangi. In the first schedule, Part III, No. I, <i>for</i> Divisions <i>read</i> Districts.
„	XV	Laws Local Extent Act, 1874.	In the second schedule, Part (a), in the entry relating to Madras Regulation II of 1806, <i>for</i> (parts of ss. 1 & 7) <i>read</i> (section 7, clause second).

THE SECOND SCHEDULE—*contd.*

Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1874	XV — <i>contd.</i>	Laws Local Extent Act, 1874.	In the sixth schedule, Part I, No. II, <i>for</i> (7) The Konda Muttá of Belgám <i>read</i> (7) The Konda Muttá of Merangi. In the sixth schedule, Part III, No. I, <i>for</i> Divisions <i>read</i> Districts.
1876	X	Bombay Revenue Jurisdiction Act, 1876.	In section 1, clause (b), <i>for</i> Act XV of 1871 <i>read</i> Act XXI of 1881.
"	XIII	Indian Merchant Seamen's Act, 1876.	In section 8, last paragraph, <i>for</i> to imprisonment <i>read</i> with imprisonment.
"	XVII	Oudh Land-revenue Act, 1876.	In section 105, <i>for</i> field <i>read</i> fields.
"	XVIII	Oudh Laws Act, 1876.	In section 39, clause (f), <i>for</i> Oudh Revenue Act <i>read</i> Oudh Land-revenue Act, 1876.
1877	III	Indian Registration Act, 1877.	To section 1 <i>add</i> the following — The Local Government may, with the previous sanction of the Governor General in Council, cancel any order excluding districts or tracts of country from the operation of this Act. In section 83, <i>for the words from</i> if for offences committed outside <i>to the end read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.

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*Amending Act.*THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1877	III — <i>contd.</i>	Indian Registration Act, 1877.	<i>After the third paragraph of section 89 insert the following:—</i> Every Revenue-officer granting a certificate of sale to the purchaser of immoveable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1. In section 90, clause (c), <i>for</i> or <i>filed read</i> are filed.
1878	I	Opium Act, 1878	In section 24, <i>for</i> Deputy Collector <i>read</i> Deputy Commissioner.
"	VII	Indian Forest Act, 1878.	In section 41, clause (e), <i>for</i> depôt <i>read</i> depôts.
"	VIII	Sea-customs Act, 1878.	In section 2, <i>for</i> the first schedule <i>read</i> Part I of the schedule. In the schedule appended to section 167— in the first column of the entry numbered 3, <i>for</i> No. 2 <i>read</i> No. 4, <i>and for</i> landing or shipment <i>read</i> shipment and landing; <i>and</i> in the second column of the entry numbered 59, <i>for</i> 141 <i>read</i> 142.

THE SECOND SCHEDULE—*contd.*

Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1878	XVII	Northern India Ferries Act, 1878.	In section 17, clause (c), <i>for first read in the first instance, and for the words and figures from and then to the end of the clause, read</i> and shall then, at the discretion of the Local Government— (i) be placed at the disposal of any District Board or District Boards established under the Punjab District Boards Act, 1883, or, (ii) be applied to any of the purposes specified in the second clause of section 5 of the Central Provinces Additional Rates Act, 1878, as the case may be ; and.
1879	I	Indian Stamp Act, 1879.	In Schedule I, Article 5, clause (b), <i>for right read</i> rights. In Schedule II, Article 13, clause (b), <i>before annual insert</i> average.
"	XVI	Transport of Salt Act, 1879.	In section 3, clause (a), <i>for</i> section twenty-eight or section thirty-one of the Act of the Governor of Bombay in Council No. VII of 1873, or by a <i>rawāna</i> granted under Madras Regulation I of 1805, section eleven, clause third, <i>read</i> Chapter V of the Madras Salt Act, 1889, or Chapter V of the Bombay Salt Act, 1890, or the corresponding law for the

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*Amending Act.*THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1879	XVI — <i>contd.</i>	Transport of Salt Act, 1879.	time being in force in the territories administered by the Governor of Fort St. George in Council or the Governor of Bombay in Council, as the case may be.
„	XXI	Foreign Jurisdiction and Extradition Act, 1879.	In section 6, <i>for the first thirty-three words read</i> The Governor General in Council may appoint any European British subject, either by name or by virtue of his office, to be a Justice of the Peace in or for any such country or place.
1880	VII	Indian Merchant Shipping Act, 1880.	In section 68, <i>for purposes read</i> purpose.
1881	V	Probate and Administration Act, 1881.	In section 59, <i>after is insert</i> or are. In section 83, <i>for proceeding read</i> proceedings.
„	XII	North-Western Provinces Rent Act, 1881.	In section 94, <i>for of village-expenses read</i> for village-expenses, <i>and for arrears or share read</i> arrears, share, expenses or dues.
„	XVIII	Central Provinces Land-revenue Act, 1881.	In section 33, <i>for the first five grades read</i> the last five classes; <i>for the Central Provinces Courts Act, 1865, read</i> the Central Provinces Civil Courts Act, 1885; <i>and for sections twelve, nineteen and twenty read</i> section 7.

THE SECOND SCHEDULE—*contd.*

Part I.—*Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1881	XVIII — <i>contd.</i>	Central Provinces Land-revenue Act, 1881.	In section 34, <i>for</i> the Central Provinces Courts Act, 1865, sections twelve, nineteen and twenty, <i>read</i> the Central Provinces Civil Courts Act, 1885, section 16 and section 17, sub-section (1), and the powers of a Court of a Commissioner described in the same Act, section 15, sub-section (1).
			In section 35, <i>for</i> the first four grades <i>read</i> the last four classes.
"	XIX	Lower Burma Forest Act, 1881.	In section 43, clause (g), <i>for</i> station <i>read</i> stations.
"	XXII	Excise Act, 1881	In sections 13 and 55, <i>for</i> Chief Controlling Revenue-authority <i>read</i> Chief Revenue-authority.
			In the heading to Chapter V, <i>after</i> spirit <i>insert</i> and fermented liquor.
1882	V	Indian Easements Act, 1882.	In section 14, <i>for</i> right <i>read</i> a right.
"	VI	Indian Companies' Act, 1882.	In section 66, <i>after</i> the word cheque, <i>where</i> it first occurs, <i>insert</i> or.
			In section 88, <i>after</i> dates <i>insert</i> of.
			In section 127, <i>for</i> prove <i>read</i> proof.
			In section 144, clause (f), <i>after</i> the word bill, in the last place in which it occurs, <i>insert</i> hundi.

THE SECOND SCHEDULE—*contd.*Part I.—Acts of the Governor General in Council.—*contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1882	X	Code of Criminal Procedure, 1882.	In section 191, <i>between</i> District Magistrate <i>and</i> Sub-divisional Magistrate <i>insert</i> or. In section 206, <i>after</i> Sub-divisional Magistrate <i>insert</i> or. In Schedule III, in the part entitled " <i>I. Ordinary Powers of a Magistrate of the third class</i> "— <i>before the first entry, insert</i> (1A) Power to arrest, or direct the arrest, and to commit to custody a person committing an offence in his presence, section 64.
"	XIV	Code of Civil Procedure.	In section 6, clause (d), <i>for</i> Maulmain, Akyab or Bassein <i>read</i> or Maulmain. In section 266, clause (i), <i>for</i> Native <i>read</i> Indian. In section 484, <i>for</i> the sum <i>read</i> the same. In section 568, clause (b), <i>for</i> <i>read</i> or.
1883	V	Indian Merchant Shipping Act, 1883.	In section 6, sub-section (3), <i>for</i> to simple imprisonment <i>read</i> with simple imprisonment.
"	XIV	North-Western Provinces and Oudh Local Boards Act, 1883.	In sections 36 and 37, <i>for</i> Government Civil Pension and Leave Codes, <i>wherever those words occur, read</i> Civil Service Regulations.

THE SECOND SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—contd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1883	XV	North-Western Provinces and Oudh Municipalities Act, 1883.	In sections 37 and 38, <i>for</i> Government Civil Pension and Leave Codes <i>read</i> Civil Service Regulations.
"	XX	Punjab District Boards Act, 1883.	In sections 28 and 29, <i>for</i> Government Civil Pension and Leave Codes, <i>wherever those words occur, read</i> Civil Service Regulations.
1884	VI	Inland Steam-vessels Act, 1884.	In section 56, <i>for</i> to simple imprisonment <i>read</i> with simple imprisonment.
"	XVII	Lower Burma Municipal Act, 1884.	In sections 34 and 35, <i>for</i> Government Civil Pension and Leave Codes, <i>wherever those words occur, read</i> Civil Service Regulations.
1886	XII	Petroleum Act, 1886.	In section 1, sub-section (3), <i>for</i> The provisions of this Act <i>read</i> Sections 1 to 4 of this Act and the provisions.
"	XXIII	Dekkhan Agriculturists' Relief Act, 1886.	In section 10, sub-section (3), <i>for</i> the same section <i>read</i> section 58.
1887	XVI	Punjab Tenancy Act, 1887.	In section 45, sub-section (2), <i>before</i> year <i>insert</i> agricultural.
1888	III	Police Act, 1888	In section 2, sub-section (1), <i>for</i> the Bombay District Police Act, 1867, <i>read</i> or the corresponding law for the time being in force in the territories administered by the Governor of Bombay in Council.

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*Amending Act.*THE SECOND SCHEDULE—*contd.**Part I.—Acts of the Governor General in Council—contd.*

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1888	VII	Civil Procedure Code Amendment Act, 1888.	In section 49, sub-section (2), <i>for</i> the same section <i>read</i> section 562. In section 52, sub-section (2), <i>for</i> the same section <i>read</i> section 566.
1889	V	Coroner of Madras.	In section 4, sub-section (2), <i>for</i> that Code <i>read</i> the Code of Criminal Procedure, 1882.
"	XI	Lower Burma Courts Act, 1889.	<i>For</i> section 87 <i>read</i> the following:— 87. For the purposes of section 47 Appeals from of the Guardians and orders under the Guardians and Wards Act, 1890, the Special Court constituted under Chapter V of this Act shall be deemed to be the High Court in respect of appeals from orders made by the Judge of the Town of Maulmain.
"	XIII	Cantonments Act, 1889.	In section 19, <i>for</i> shall not be imposed under section 17 of this Act in the cantonment, <i>read</i> shall not be leviable in the cantonment in pursuance of a notification under section 17 of this Act.
"	XVIII	Central Provinces Municipal Act, 1889.	In section 29, clause (f), <i>for</i> used <i>read</i> use.

THE SECOND SCHEDULE—*contd.*

Part I.—Acts of the Governor General in Council—concl'd.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
1890	III	Amending the In-land Steam-ves-sels Act, 1884, and the Indian Steam-ships Act, 1884. •	In section 4, sub-section (2), for the same section <i>read</i> section 11 of the said Act. In section 17, sub-section (2), for the same section <i>read</i> section 13 of the said Act.
1891	VII	Amending Act X of 1841.	In section 6, sub-section (2), for the same section <i>read</i> section 17 of the said Act.

Part II.—Regulations of the Bengal Code.

1	2	3	4
Year.	No.	Subject.	Amendment.
1793	XI	Inheritance . . .	In section 3, for that section <i>read</i> section 2, and for Regulation XXV, 1793, <i>read</i> the 'Estates' Partition Act, 1876.
1817	XII	Patwáris . . .	In section 31, for Boards are <i>read</i> Board is. <i>For section 35 read the following :—</i> 35. (1) Any person aggrieved by Appeal to Com- a decision or missioner from de- order of a Col- cision or order lector under under section 20. section 20 of this Regulation may appeal within six months from the date thereof to the Commissioner of the Division.

THE SECOND SCHEDULE—*contd.**Part II.—Regulations of the Bengal Code—contd.*

1	2	3	4
Year.	No.	Subject.	Amendment.
1817	XII — <i>contd.</i>	Patwaris . . .	(2) The Commissioner may reverse or alter any such decision or order in appeal.
„	XX	Police . . .	In the heading prefixed to section 20, for Commercial, Salt and Opium Departments read Opium Department, and for those Departments read that Department. In section 29, clause <i>Twelfth</i> , for Section XXXI, Regulation XIII, 1816, read Act XIII of 1857, section 21.
1818	III	State Prisoners . .	In section 9, after situated insert and.
1819	II	Resumption of revenue-free lands.	In section 6, clause <i>First</i> , for the words from in the Persian and Bengal languages to Conquered Provinces read in the vernacular of the district. In section 12, after belong insert he. In section 26, clause <i>Second</i> , for a appeal read an appeal.
1822	III	Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.	(a) In section 5, clause <i>First</i> , for the Governor General in Council, by an order in Council, and for the Governor General in Council similarly, (b) in section 5, clause <i>First</i> , first proviso, clause <i>Second</i> and clause <i>Third</i> , for Government, and (c) in section 5, clauses <i>Fourth</i> and <i>Fifth</i> , for the Governor General in Council—read the Lieutenant-Governor.

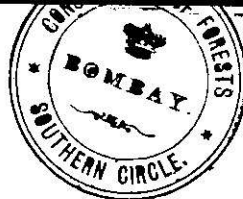
Repealing and Amending Act. [ACT XII, 1891.]

THE SECOND SCHEDULE—*concl'd.*

Part II.—Regulations of the Bengal Code—concl'd.

1	2	3	4
Year.	No.	Subject.	Amendment.
1822	III — <i>cont'd.</i>	Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal.	In section 5, clause <i>First</i> , first proviso, <i>before</i> Collector <i>insert</i> Commissioner or. In section 5, clause <i>First</i> , third proviso, <i>for</i> formally confirmed <i>read</i> made or confirmed in accordance with rules sanctioned.
1823	VI	Indigo contracts	In section 6, <i>for</i> a investigation <i>read</i> an investigation.
1825	XIII	Settlement of resumed — lákhiráj land.	In section 4, <i>for</i> the Regulations <i>read</i> the Regulation. In section 5, <i>for</i> Regulations <i>read</i> Regulation.

27. 7. 94



Office, Shapurji

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ACT No. IV OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd February, 1894.)

An Act to repeal certain obsolete Enactments and to amend certain other Enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed ;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Repealing and Amending Act, 1894.

Title, extent
and com-
mencement.

(2) It extends to the whole of the territories administered by the Governor of Bombay in Council ; and

(3) It shall come into force at once.

2. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Enactments
in schedules
repealed and
amended
respectively.

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3. The repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to ;

Savings.

and

[Price two annas.]

Repeals and Amendments (Bombay). [ACT IV

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part I.—Regulations of the Bombay Code.

1827	V	Acknowledgment of debts ; interest ; mortgages.	Appendix B.
"	XII	Police . . .	Appendix E.
"	XIII	Criminal Courts .	Appendices A, B, D, E, F, G, H, I, J, K, L, M and N.
"	XX	Customs and Duties .	So much as has not been repealed.

1894] *Repeals and Amendments (Bombay).*

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part I.—Regulations of the Bombay Code—concl'd.

1827	XXI	Duty on Opium and Spirits.	So much as has not been repealed.
"	XXIX	Dekkhan and Khandedh.	In section 2, clause first, <i>the words and figures</i> with the exception of Regulation XVIII and of any enactments relating to stamps.
1834	I	Deputy Agent for Sardars in Dekkhan.	In the title, <i>the words and figures</i> and for rescinding Regulation V of 1828 which defines the duties and jurisdiction of that office. In the preamble, <i>the words</i> to have effect from the date of promulgation.

Part II.—Rules, Ordinances and Regulations relating to the Town and Island of Bombay.

1825	II	Repealing in part Rule, Ordinance and Regulation I of 1812.	The whole.
1827	I	Repealing in part Rule, Ordinance and Regulation I of 1814.	The whole.
1828	I	Preventing goods from being left on quays.	The whole.
1834	I	Repealing in part Rule, Ordinance and Regulation II of 1827.	So much as has not been repealed.

Part III.

Repeals and Amendments (Bombay). [ACT IV

THE FIRST SCHEDULE—*concl'd.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part III.—Acts of the Governor General in Council.

1836	VII	Authority of certain Regulations.	So much as has not been repealed.
1852	XI	Titles to rent-free estates.	In the preamble, <i>the words and figures</i> and incapable of being justly disposed of under the rules for the determination of titles and the rules of procedure contained in Chapters IX and X of Regulation XVII of 1827 of the Bombay Code and their supplements. So much of section 1 as has not been repealed. In section 2, <i>the words</i> the said.
1874	XV	Laws Local Extent Act, 1874.	Section 8, clause (i).
1875	VI	Loan to Sir Jamsetjee Jeejeebhoy.	The whole.
1876	X	Bombay Revenue Jurisdiction Act, 1876.	In the preamble, <i>the words and figures</i> and to provide for the recovery by the Local Government of advances made for purposes other than those specified in section three of the Land Improvement Act, 1871.
1877	XIV	Broach and Kaira Incumbered Estates Act, 1877.	In section 39, <i>the word</i> And <i>where it first occurs; and the word</i> further. In section 41, clause (b), <i>the words</i> the said.
1878	I	Opium Act, 1878	The third paragraph of section 2.
1884	XI	Sindh Incumbered Estates Act, 1884.	Section 8. Section 9.

Part I.

1894.] *Repeals and Amendments (Bombay).*

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
<i>Part I.—Regulation of the Bombay Code. *</i>			
1830	XIII	Jurisdiction of Jagirdars, etc.	In section 3, clause third, <i>after</i> open to <i>insert</i> appeal to.
<i>Part II.—Act of the Governor General in Council.</i>			
1839	XX	Levy of haqq, etc.	In section 3, <i>for</i> shall be punishable as for an undue exaction under Regulation XVII of 1827, section XVI, of the Bombay Code, notwithstanding the offender be not a Revenue Officer of Government <i>read</i> shall, whether he is or is not a Revenue Officer of Government, be punishable with imprisonment for a term which may extend to seven years, and shall also be liable to fine not exceeding ten times the amount of the sum so levied.

ACT No. XVI OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 10th October, 1895.)

An Act to repeal certain obsolete Enactments and to amend certain other Enactments.

WHEREAS it is expedient that certain enactments specified in the first schedule to this Act, which are spent, or have ceased to be in force otherwise than by express, specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act:

It is hereby enacted as follows:—

1. (1) This Act may be called the Repealing and Amending Act, 1895. Title, extent and commencement.

(2) It extends to the whole of the territories administered by the Governor of Bombay in Council; and

(3) It shall come into force at once.

2. (1) The enactments specified in the first schedule are hereby repealed to the extent mentioned in the fourth column thereof. Enactments in first and second schedules repealed and amended respectively.

(2) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

3. The repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to; Savings.

and

[Price three annas and nine pies.]

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt,^{*} penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed by, recognized in or derived from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

A description or citation of a portion of an Act or Regulation includes the words, section or other part mentioned or referred to as forming the beginning or as forming the end of the portion comprised in such description or citation.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part I.—Acts of the Governor General in Council.

1860	XLVIII	Police, Bombay Town	In section 7, <i>the words from and, if the offender to the end of the section.</i> Section 27.
1876	X	Bombay Revenue Jurisdiction Act, 1876.	Section 1, clause (c).
"	XX	Bhaunagar Act, 1876	Section 3.
1879	XVII	Dekkhan Agriculturists' Relief Act, 1879.	In section 3, clause (a), <i>the words and figures on or after the first day of November, 1879.</i> In clause (b), <i>of the same section, the words and instituted on or after the same date.</i> In section 5, <i>the words and figures from and any such jurisdiction to the end of the section.</i>
1881	XXIII	Dekkhan Agriculturists' Relief Act, 1881.	Sections 6 and 8.
1882	XXII	Dekkhan Agriculturists' Relief Act, 1882.	Sections 3, 7, 11 and 12. In section 14, <i>the word and figures</i> and 52.
1886	XXIII	Dekkhan Agriculturists' Relief Act, 1886.	Section 4.
1889	XIV	Indemnity to certain witnesses.	The whole.

Part II.—Acts of the Governor of Bombay in Council.

1863	II	Exemptions from land-revenue.	In section 11, clause First, <i>the words of the same.</i> Section 12.
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THE FIRST SCHEDULE—continued.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.
<i>Part II.—Acts of the Governor of Bombay in Council—continued.</i>			
1863	III	Satara, etc.	In the title, <i>the words from</i> certain lands to taluka Kundapur. In the preamble, <i>the words and figures from</i> and whereas lands to it is expedient that the district so transferred should be brought under the Regulations and Acts of the Presidency of Bombay. Section 4, clause <i>Second</i> .
1865	III	Wagers	Section 4.
1866	I	Extending Bombay Act I of 1865 to Sind.	The whole.
"	VIII	Sale of Poisons	In sections 3, 4 and 13, <i>the word the where it occurs before the word Schedule</i> .
"	XII	Sind Courts	Sections 13 and 14.
"	XIV	Edulabad and Warangaon	In section 3, <i>the words and figures from</i> as amended to Bombay.
1871	II	Duties on non-agriculturists.	So much as has not been repealed.
1872	II	Repayment of loan to Bombay Corporation.	So much as has not been repealed.
1873	VI	Bombay District Municipal Act.	In the heading to Part VIII, <i>the word Appeals</i> . Section 21, clause (4).
1874	III	Bombay Hereditary Offices Act.	In section 77, <i>the word Revenue</i> . Section 14, clause (2). Section 15, clause (2).
1875	III	Tolls on Roads and Bridges.	Section 2. In section 3, <i>the words from</i> Until such rates to this Act.
1876	III	Mamlatdars' Courts Act, 1876.	In section 3, clause (1), <i>the words and figures from</i> or who to the end.

THE FIRST SCHEDULE—continued.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part II.—Acts of the Governor of Bombay in Council—continued.

1877	I	Bombay Vaccination Act, 1877.	In section 7, <i>the word</i> and <i>at the end of the second paragraph, and the whole of the third paragraph.</i>
1878	V	Bombay Abkari Act, 1878	Section 2 and the schedule. In section 3, clause (9), <i>the word</i> Indian. Sections 64, 65 and 66.
1879	IV	Karachi Vaccination Act, 1879.	In section 7, <i>the word</i> and <i>at the end of the second paragraph, and the whole of the third paragraph.</i>
"	V	Bombay Land-revenue Code, 1879.	In section 1, the last two sentences. The fourth paragraph of section 4, and the third paragraph of section 7. In sections 8 and 11, <i>the words</i> of the district, <i>and</i> in section 10 <i>the words</i> of a district. In section 12, the last sentence. In section 14, the last sentence. In section 17, <i>the words</i> from and, pending to required to keep. In section 22, the last sentence. In section 132, the last sentence. Schedule A, so far as it relates to Bombay Act I of 1866.
"	VII	Bombay Irrigation Act, 1879.	Section 33.
1880	III	Repealing certain sections of Bombay Act VII of 1879.	The whole.
1882	I	Repealing Bombay Act VII of 1878.	The whole.
"	VII	Bombay Landing and Wharfage Fees Act, 1882.	In section 4, <i>the words</i> the Commissioner in Sind, the Political Resident at Aden and. Section 11.
1883	V	Bombay Public Authorities' Seals Act, 1883.	In the preamble, <i>the words and figures</i> from to extend to so as, <i>and the words</i> other <i>and</i> besides Magistrates. In section 3, <i>the words</i> Courts and other.

THE FIRST SCHEDULE—*continued.*

1.	2.	3.	4.
Year.	No.	Subject or title.	Extent of repeal.
<i>Part II.—Acts of the Governor of Bombay in Council—continued.</i>			
1884	I	Bombay Local Boards Act, 1884.	In section 44, clause (d), <i>the words and figures</i> or by order of the Governor in Council under section 42.
	II	Bombay District Municipal Act Amendment Act, 1884.	The second proviso to section 3.
1885		Legalizing the payment by the Trustees of the Port of Bombay of certain arrears of interest due to the Government.	The whole.
"	IV	Amendment of Bombay Acts I (Local Boards) and II (District Municipalities) of 1884.	Sections 2 and 4.
1886		Bombay General Clauses Act, 1886.	Section 2, first paragraph. In section 3, clause (b), <i>the words</i> other than the Settlement of Prince of Wales' Island, Singapore and Malacca. So much of Schedule A as has not been repealed. So much of Schedule B as relates to Bombay Acts I of 1862, V of 1862, VI of 1862, I of 1863, III of 1863, V of 1863, VI of 1863, VII of 1866, VIII of 1866, XII of 1866, XIII of 1866, VI of 1867, II of 1868, III of 1869, II of 1871, I of 1872, VI of 1873, I of 1874, II of 1874, III of 1874, III of 1875, II of 1876, III of 1876, I of 1877, IV of 1879, V of 1879, VI of 1879, VII of 1879, I of 1880, I of 1883, II of 1883, I of 1884 and II of 1884.
1886	V	Hereditary Offices (amending Bombay Act III of 1874).	Section 4.
1887	IV	Bombay Prevention of Gambling Act, 1887.	Section 2 and the schedule.

THE FIRST SCHEDULE—continued.

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part II.—Acts of the Governor of Bombay in Council—continued.

1888	I	Amendment of Bombay Acts I (Local Boards) and II (District Municipalities) of 1884.	Section 2.
	III	City of Bombay Municipal Act, 1888.	In section 5, <i>the words and figures</i> On and after the first day of April, 1889. Section 6, sub-section (1). In section 19, sub-section (1), <i>the words and figures</i> On or before the first day of October, 1888, and; <i>also the word</i> thereafter. Section 22, sub-section (2). In section 34, in sub-section (1), <i>the words</i> not being one of the first general elections held in accordance with this Act, and, in sub-section (2) <i>the words</i> of a first general election held in accordance with this Act, or. In section 35, the whole of sub-section (1) and the first word of sub-section (2). In section 39, in sub-section (2), the first sentence, <i>and the words</i> then or thereafter; and, in sub-section (3), the first sentence <i>and the word</i> thereafter. In section 79, sub-section (1), <i>the words</i> as soon as may be after this Act comes into force, and afterwards. The whole of Schedule R except section 7 thereof.
	IV	City of Bombay Municipal Act Amendment Act, 1888.	Section 7.
	V	Aden Port Trust Act, 1888	Section 9. In section 19, <i>the words from</i> Until a schedule to directed under this Act. In section 25, sub-section (1), <i>the words and figure</i> upon and after the date notified by the Governor in Council under section 9. In sections 37 and 39, <i>the words</i> after the date on which this Act comes into force.

THE FIRST SCHEDULE—*continued.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part II.—Acts of the Governor of Bombay in Council—concluded.

1888	V <i>—contd.</i>		In section 40, sub-section (3), <i>the figures</i> 1881. Section 40, sub-section (4). Section 81.
"	VI	Gujarāt Taluqdars Act, 1888.	Section 3.
1890	II	Bombay Salt Act, 1890	In section 1, sub-section (2), <i>the words from but to</i> in this behalf. Section 9.
"	IV	Bombay District Police Act, 1890.	In section 2, first paragraph, the last fifteen words. Section 82.
1891	I	Amendment of the Bombay General Clauses Act, 1886.	Section 1.
"	II	Bombay Boiler Inspection Act, 1891.	In section 23, clause (c), <i>the words to the inspector.</i>
1892	I	Bombay District Vaccination Act, 1892.	Section 33, sub-section (2).

Part III.—Regulations of the Bombay Code.

1827	II	Pleaders	In section 50, clause Third, <i>the words and figures from</i> under the rules to Regulation. In section 51, clause Second, <i>the words rules contained in the and the words and figures</i> according to section 56 of this Regulation. In section 56, <i>the words and figures from</i> under the rules to Regulation.
1834	I	Abolition of office of Deputy Agent for Sardars in Dekkhan.	So much as has not been repealed.

1895.]

*Amending Act.*THE FIRST SCHEDULE—*concluded.*

1	2	3	4
Year.	No.	Subject or title.	Extent of repeal.

Part IV.—Regulations made under 33 Vict., c. 3.

1887	XI	Aden Pilgrims and Paupers Regulation, 1887.	Section 2, clause (1).
1892	III	Sind Frontier Regulation, 1892.	Section 2, sub-section (1).

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

1	2	3	4
Year.	No.	Subject or title.	Amendment.

Part I.—Acts of the Governor of Bombay in Council.

1863	II	Exemptions from land-revenue.	In section 5, clause <i>First</i> , first proviso <i>for or after nazrána read on.</i> In section 11, clause <i>Third</i> , for collectorate <i>read district.</i>
"	V	Bombay Gas Company	In section 7, for the words and figures under Act XIV of 1856 <i>read in Municipalities under the law for the time being in force.</i>
"	VI	Public Conveyances (Bombay Town, Suburbs and Harbour).	In section 18, for laws <i>read law.</i>
"	VII	Exemptions from land-revenue.	In section 18, clause <i>Second</i> , and section 19, clause <i>Fifth</i> , for the Stamp Act <i>read the Court-fees Act, 1870.</i>
1867	VI	Sanitary Regulation, Bombay City.	In section 4, for the appended schedule <i>read Schedule A.</i> In section 8, between the words <i>may and require insert</i> by an order in writing in the form given in Schedule B.
1869	III	Bombay Local Funds Act, 1869.	In section 7, after defined in <i>insert the.</i> In section 7, clause 1, after laid down in <i>insert the.</i> In section 8, after occupants of land under <i>insert the.</i>
1873	VI	Bombay District Municipal Act.	In section 53, clause 1, for quarry <i>read quay.</i>
1874	III	Bombay Hereditary Offices Act.	In the definition of "officiator" in section 4, after provisions <i>insert</i> of this Act. In section 10, after the date <i>insert</i> of this Act. In section 73, clause 2, after provisions <i>insert</i> of this Act.
1876	II	Bombay City Land-revenue Act, 1876.	In section 6, for in India <i>read</i> of India.

1895.]

Amending Act.

THE SECOND SCHEDULE—continued.

1	2	3	4
Year.	No.	Subject or title.	Amendment.
<i>Part I.—Acts of the Governor of Bombay in Council—continued.</i>			
1877	I	Bombay Vaccination Act, 1877.	In section 3, <i>after</i> purposes insert of this Act. In section 28, <i>for</i> in the manner prescribed by Act XIII of 1856 (<i>for regulating the Police of the towns of Calcutta, Madras and Bombay</i>) and Act XLVIII of 1860 (<i>to amend Act XIII of 1856</i>) or any other Act for the time being in force regulating the Police of the City of Bombay, <i>read</i> in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts. In Schedule D, <i>for</i> ten rupees <i>read</i> fifty rupees.
1879	IV	Karachi Vaccination Act, 1879.	In section 20, <i>for</i> to <i>where</i> the word <i>occurs before</i> fine <i>read</i> with. In Schedule D, <i>for</i> ten rupees <i>read</i> fifty rupees.
"	V	Bombay Land-revenue Code, 1879.	In section 61, <i>for</i> an incomplete portion <i>read</i> a portion. In section 99, clause (b), <i>for</i> their, <i>the first time that word occurs, read</i> the. In the second paragraph of section 104, <i>before</i> revised <i>insert</i> original or. In section 211, <i>for</i> the word and <i>where it precedes the words</i> Assistant-Superintendent of Survey <i>read</i> an.
1882	IV	Bombay Town Police (amending Act XLVIII of 1860).	In section 1, <i>for</i> the words and figures sections are substituted for sections 17 and 18 of Act XLVIII of 1860, which are, <i>read</i> section is substituted for section 18 of Act XLVIII of 1860, which is.
"	VII	Landing and Wharfage Fees.	In section 2, <i>for</i> the words It shall extend—(a) to the Ports of Karachi and Aden; (b) to any other ports <i>read</i> it shall extend to any port.
1883	I	Bombay Highway Act, 1883.	In section 5, <i>for</i> municipalities <i>read</i> municipality.

Repealing and Amending Act. [ACT XVI, 1895.]

THE SECOND SCHEDULE—concluded.

1.	2.	3.	4.
Year.	No.	Subject or title.	Amendment.

Part I.—Acts of the Governor of Bombay in Council—concluded.

1884	II	Bombay District Municipal Act Amendment Act, 1884.	In section 4, clause (3), <i>before coming and before</i> and the like <i>insert</i> of this Act.
1886	III	Bombay General Clauses Act, 1886.	In column 4 of Schedule B, <i>opposite</i> Act VII of 1867, section 44, <i>after</i> of Police <i>insert</i> (where the words first occur).
1888	III	City of Bombay Municipal Act, 1888.	In section 35, sub-section (2), <i>for</i> appointment <i>read</i> appointments. In section 471, <i>for</i> 418 <i>read</i> 428.
"	V	Aden Port Trust Act, 1888	In section 19, in clause (c) of the proviso, <i>for the words</i> day aforesaid <i>read</i> 31st March, 1889, <i>and for the words and figure</i> date notified by the Governor in Council under section 9 <i>read</i> 1st April, 1889. In section 20, in clause (b) of the proviso, <i>for the words and figure</i> date notified by the Governor in Council under section 9 <i>read</i> 1st April, 1889.

Part II.—Regulations of the Bombay Code.

1827	II	Pleaders	In section 51, <i>for</i> dismissal <i>read</i> dismissal.
1830	VII	Southern Maratha Country	In the preamble, <i>for the words and figures</i> Regulations XXIX and XXX <i>read</i> Regulation XXIX. In section 2, <i>for the words and figures</i> Regulations XXIX of 1827 and XXX of 1827 <i>read</i> Regulation XXIX of 1827, <i>and for the words</i> the following sections <i>read</i> section 5.

No 871 ✓

ACT No. XI OF 1901.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 25th October, 1901.)

An Act to facilitate the citation of certain enactments and to amend and repeal certain obsolete enactments.

WHEREAS it is expedient to facilitate the citation of the enactments specified in the first schedule to this Act;

And whereas it is also expedient that certain formal amendments should be made in the enactments specified in the second schedule to this Act;

And whereas it is also expedient that certain enactments specified in the third schedule to this Act, which are spent, or have ceased to be in force otherwise than by express specific repeal, or have by lapse of time or otherwise become unnecessary, should be expressly and specifically repealed;

It is hereby enacted as follows :

1. (1) This Act may be called the Repealing and Amending Act, 1901 ; and

Title and
commence-
ment.

(2) It shall come into force at once.

2. Each of the enactments specified in the first three columns of the first schedule may, without prejudice to any other mode of citation, be cited for all purposes by the short title mentioned in that behalf in the fourth column thereof.

Citation
of certain
enactments.

3. (1) The enactments specified in the second schedule shall be modified to the extent and in the manner mentioned in the fourth column thereof.

Enactments
amended
and enact-
ments
repealed.

(2) The enactments specified in the third schedule are hereby repealed to the extent mentioned in the fourth column thereof.

4. The

[Price five annas and six pies.]

Savings.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered, or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment provide or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

THE FIRST SCHEDULE.

CITATION OF ENACTMENTS.

(See section 2.)

1	2	3	4
Year.	No.	Subject.	Short title.

Part I.— Madras Regulations.

1802	III	A Regulation for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adalat established in the several Zilas immediately subject to the Presidency of Fort St. George.	The Madras Administration of Estates Regulation, 1802.
"	XIX	A Regulation for prohibiting Covenanted Civil Servants of the Company employed in the administration of justice, or the collection of the public revenue, lending money to Zamindars, independent Taluqdars or other actual Proprietors of land, or dependent Taluqdars or Farmers of land, holding farms immediately of Government; or the Under-farmers or Raiyats of the several descriptions of Proprietors and Farmers of land above-mentioned, or their respective sureties.	The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802.
"	XXV	A Regulation for declaring the proprietary right of lands to be vested in individual persons, and for defining the rights of such persons, under the permanent assessment of the Land-revenue in the British Territories subject to the Presidency of Fort St. George.	The Madras Permanent Settlement Regulation, 1802.
"	XXVI	A Regulation for governing the sale and sub-division of malguzari lands in the British Territories subject to the Presidency of Fort St. George.	The Madras Land Registration Regulation, 1802.
"	XXIX	A Regulation for establishing the office of Karnam, and defining the duties of the said office, in the British Territories subject to the Presidency of Fort St. George.	The Madras Karnams Regulation, 1802.
1803	I	A Regulation for defining the duties of the Board of Revenue, and for determining the extent of the powers vested in the Board of Revenue.	The Madras Board of Revenue Regulation, 1803.
"	II	A Regulation for describing and determining the conduct to be observed by Collectors in certain cases.	The Madras Collectors Regulation, 1803.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Madras Regulations—contd.</i>			
1804	V	A Regulation for constituting a Court of Wards, for declaring the powers vested in the said Court, and for defining the rules under which those powers are to be exercised.	The Madras Court of Wards Regulation, 1804.
1808	VII	A Regulation for declaring the powers of the Governor General in Council to provide for the immediate punishment of certain offences against the State, by the sentence of Courts-martial.	The Madras State Offences Regulation, 1808.
1816	I	A Regulation for declaring the contributions hitherto paid in the Province of Tanjore on account of the Kavali Police, appropriable to the support of the new Police established, or to be established, in that Province, and for regulating the collection and assessment of those contributions.	The Tanjore Police Regulation, 1816.
"	V	A Regulation for authorizing Village Munsifs to assemble Village Pancháyats for the adjudication of civil suits for sums of money or other personal property, without limitation as to amount or value, within their respective jurisdictions, and for defining the powers and authority to be vested in such Village Pancháyats.	The Madras Village-pancháyats Regulation, 1816.
"	XI	A Regulation for the establishment of a general system of Police throughout the territories subject to the Government of Port St. George.	The Madras Village-police Regulation, 1816.
"	XII	A Regulation for authorizing Collectors to refer claims regarding lands or crops, the validity of which claims may depend on the determination of a disputed boundary, as also certain disputes respecting the occupying, cultivating and irrigating of land to be tried and determined by Village and District Pancháyats, and for prescribing the Rules under which the trial of such disputes shall be conducted and the decisions of the Pancháyats carried into execution.	The Madras Village-lands Disputes Regulation, 1816.

1901.]

*Repealing and Amending.*THE FIRST SCHEDULE—*contd.*

1.	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Madras Regulations—contd.</i>			
1817	VII	A Regulation for the due appropriation of the rents and produce of lands granted for the support of mosques, Hindu temples and colleges or other public purposes, for the maintenance and repair of bridges, choultries or chattrams and other public buildings, and for the custody and disposal of escheats.	The Madras Endowments and Escheats Regulation, 1817.
"	VIII	A Regulation for expediting the trial of civil suits in which the Native officers and soldiers attached to regular Corps in the Madras Command may be parties, and for giving to them certain facilities in the maintenance and recovery of their rights, claims and interests.	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.
1819	II	A Regulation for the confinement of State Prisoners.	The Madras State Prisoners Regulation, 1819.
1821	IV	A Regulation for giving greater efficiency to the system of Police established in the provinces subordinate to the Presidency of Fort St. George.	The Madras Village-police Regulation, 1821.
1822	IV	A Regulation declaring the true intent and meaning of Regulation XXV of 1802 so far as it relates to the rights of the actual Cultivators of the soil.	The Madras Permanent Settlement (Interpretation) Regulation, 1822.
"	VII	A Regulation for declaring that the appointment and removal of the Native Public Servants of Government shall be regulated by such orders as the Governor in Council may, from time to time, see fit to issue.	The Madras Native Public Officers Regulation, 1822.
"	IX	A Regulation for empowering Collectors to take primary cognizance of cases of malversation in Revenue affairs, for prescribing the rules to be observed in such investigations and in the recovery of money embezzled or corruptly received by Public Servants and others amenable to the Collector's jurisdiction, and for providing for the admission and trial of Appeals from the summary decisions of Collectors in such cases.	The Madras Revenue Malversation Regulation, 1822.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part I.—Madras Regulations—concl'd.</i>			
1823	III	A Regulation for declaring the powers of Subordinate and Assistant Collectors in the execution of the provisions of Regulation IX of 1822.	The Madras Revenue Malversation (Amendment) Regulation, 1823.
1828	VII	A Regulation for declaring the powers of Subordinate and Assistant Collectors in charge of particular divisions of districts and for facilitating proceedings under Regulation IX of 1822.	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.
1829	V	A Regulation for modifying section 16, Regulation III, 1802; and for declaring the legal force of Wills left by Hindus within the territories subject to the Presidency of Fort St. George to be dependent on their conformity to the Hindu Law according to the Authorities prevalent in the respective Provinces under this Government.	The Madras Hindu Wills Regulation, 1829.
1830	I	A Regulation for declaring the practice of Sati or of burning or burying alive the Widows of Hindus illegal, and punishable by the Criminal Courts.	The Madras Sati Regulation, 1830.
1831	V	A Regulation to modify and amend the provisions in force for the recovery of the penalties prescribed for certain breaches of the stamp laws.	The Madras Stamp Penalties Regulation, 1831.
"	VI	A Regulation to prevent the misappropriation of the emoluments annexed by the State to hereditary village and other offices in the Revenue and Police Departments, and to maintain the due efficiency of those offices.	The Madras Hereditary Offices Regulation, 1831.
"	X	A Regulation to prohibit the sale of estates belonging to Minors not under the charge of the Court of Wards, and to extend the provisions of section 20, Regulation V, 1804, to property of every description not subject to the jurisdiction of that Court.	The Madras Sale of Minors' Estates Regulation, 1831.
1832	III	A Regulation for limiting the period within which plaints, or appeals preferred under section 16, Regulation IX, 1822, shall be admissible in the Courts of Adalat.	The Madras Revenue Malversation (Amendment) Regulation, 1832.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.

Part II.—Acts of the Governor General in Council.

1837	XXXVI c	An Act to extend the application of Madras Regulations IX of 1822 and VII of 1828.	The Madras Public Property Malversation Act, 1837.
1839	VII	An Act to invest Tahsildars within the Presidency of Fort St. George with certain powers in respect of property distrained for arrears of rent or revenue.	The Madras Rent and Revenue Sales Act, 1839.
"	XXIV	An Act for the administration of justice and collection of the Revenue in certain parts of the Districts of Ganjam and Vizagapatam.	The Ganjam and Vizagapatam Act, 1839.
1840	VIII	An Act concerning the signing of awards by the members of Pancháyats.	The Madras Pancháyats Act, 1840.
1844	VI	An Act for the levy of inland customs-duties within the territories subject to the Government of Fort St. George.	The Madras Inland Customs Act, 1844.
1849	X	An Act for appointing a Commissioner of Revenue at Madras.	The Madras Revenue Commissioner Act, 1849.
1851	XII	An Act for securing the land-revenue of Madras.	The Madras City Land-revenue Act, 1851.
1854	XXIV	An Act to prohibit the possession of certain offensive weapons in Malabar.	The Malabar War-knives Act, 1854.
1855	XXI	An Act for making better provision for the education of male Minors and the marriage of male and female Minors subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.	The Madras Minors Act, 1855.
1857	VII	An Act for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George.	The Madras Uncovenanted Officers Act, 1857.
"	XXVII	An Act to establish and incorporate an University at Madras.	The Madras University Act, 1857.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part II.—Acts of the Governor General in Council—contd.</i>			
1858	I	An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labour on certain works of irrigation in the Presidency of Fort St. George.	The Madras Compulsory Labour Act, 1858.
1859	XX	An Act for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George.	The Moplah Outrages Act, 1859.
"	XXIV	An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.	The Madras District Police Act, 1859.
1865	XXX	An Act to define and sanction the rates which the Madras Irrigation and Canal Company is authorized to charge for the supply of water for purposes other than that of irrigation.	The Madras Irrigation and Canal Company Act, 1865.
1877	XIX	An Act to enable certain District Judges to suspend and remove certain ministerial officers and for other purposes.	The Madras Civil Courts (Amendment) Act, 1877.
1882	XXI	An Act to remove doubts regarding the Madras Forest Act, 1882.	The Madras Forest (Validation) Act, 1882.
1884	II	An Act to give effect to certain unregistered instruments of partition relating to immoveable property in the Madras Presidency, and to remove doubts as to the titles conferred thereby.	The Madras Partition-deeds (Validation) Act, 1884.
1889	V	An Act to abolish the office of Coroner of Madras.	The Coroners (Madras) Act, 1889.
<i>Part III.—Acts of the Governor of Fort St. George in Council.</i>			
1862	IV	An Act to exempt enfranchised inams from the operation of Regulation IV of 1831 and Acts XXXI of 1836 and XXIII of 1838.	The Madras Enfranchised Inams Act, 1862.
1864	I	An Act to consolidate the laws for the recovery of Arrears of Revenue in the Madras Presidency.	The Madras Revenue Recovery Act, 1864.

THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Acts of the Governor of Fort St. George in Council—contd.</i>			
1865	I	An Act to provide for the alteration of the limits of Districts or Zilas in the Madras Presidency.	The Madras District Limits Act, 1865.
"	V	An Act to amend Act XXIV of 1859	The Madras District Police (Amendment) Act, 1865.
"	VI	An Act to enable the Governor in Council to direct and prescribe what official seals Collectors, Magistrates and other public officers shall have and use.	The Madras Official Seals Act, 1865.
"	VII	An Act to enable the Government to levy a separate cess for the use of water supplied for irrigation purposes in certain cases.	The Madras Irrigation Cess Act, 1865.
"	VIII	An Act to consolidate and improve the laws which define the process to be taken for the recovery of rent.	The Madras Rent Recovery Act, 1865.
1866	II	An Act for the prevention of the spread of disease among Cattle in the Madras Presidency.	The Madras Cattle-disease Act, 1866.
"	IV	An Act to exempt enfranchised Village or other Service Inams, whether Revenue or Police, from the operation of Regulation VI of 1831.	The Madras Enfranchised Inams Act, 1866.
"	V	An Act to regulate the manner of engaging and contracting with Native inhabitants, within any of the districts subject to the Government of Fort St. George, for labour to be performed in any part of India beyond the territorial limits of the Presidency of Madras.	The Madras Labour and Emigration Act, 1866.
1867	VI	An Act to amend Act XII of 1851 (<i>an Act for securing the Land-revenue of Madras</i>).	The Madras City Land-revenue (Amendment) Act, 1867.
1869	III	An Act to empower Revenue-officers to summon persons to attend at their Kachahris for the settlement of matters connected with Revenue administration.	The Madras Revenue Summonses Act, 1869.

THE FIRST SCHEDULE—*contd.*

	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Acts of the Governor of Fort St. George in Council—contd.</i>			
1869	VIII	An Act to prevent doubts as to the true intent and meaning of certain words used in the title-deeds of inams heretofore furnished to inam-holders by the Inam Commissioner of the Madras Presidency, and to declare the true intent and meaning of Madras Acts IV of 1862 and IV of 1866.	The Madras Inams Act, 1869.
1871	II	An Act to declare the meaning of clause 4, section 11 of Madras Act VIII of 1865.	The Madras Rent Recovery (Amendment) Act, 1871.
"	VII	<i>An Act to amend Madras Act V of 1863 (an Act to prevent damage to the Madras Pier, to regulate the traffic and to provide for the levying of tolls upon the same, and to provide for its extension to other piers).</i>	The Madras Pier (Amendment) Act, 1871.
1873	I	An Act to prevent the indiscriminate destruction of wild Elephants.	The Madras Wild Elephants' Preservation Act, 1873.
1876	I	An Act to make better provision for the separate assessment of alienated portions of permanently settled estates.	The Madras Land-revenue Assessment Act, 1876.
1878	VII	An Act to provide for the payment from Municipal Funds of a portion of the cost of the Police Force employed in the City of Madras and in all Municipal Towns within the Presidency of Fort St. George.	The Madras Municipal Police Act, 1878.
1879	I	An Act to amend Madras Act II of 1866 (the Cattle-disease Prevention Act).	The Madras Cattle-disease (Amendment) Act, 1879.
1884	III	The Madras Revenue Recovery Act Amendment Act.	The Madras Revenue Recovery (Amendment) Act, 1884.
"	VII	An Act to amend Act I of 1884 (the City of Madras Municipal Act).	The Madras City Municipal (Amendment) Act, 1884.
1885	II	An Act to amend the Madras Rivers Conservancy Act, 1884.	The Madras Rivers Conservancy (Amendment) Act, 1885.

1901.]

*Repealing and Amending.*THE FIRST SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject.	Short title.
<i>Part III.—Acts of the Governor of Fort St. George in Council—contd.</i>			
1886	III	An Act to amend Madras Act II of 1886 .	The Madras Harbour Trust (Amendment) Act, 1886.
1890	III	An Act to amend the Madras Local Boards Act, 1884, and the Madras Rent Recovery Act, 1865.	The Madras Local Boards and Rent Recovery (Amendment) Act, 1890.
1892	I	An Act to amend Madras Act II of 1886 (the Madras Harbour Trust Act).	The Madras Harbour Trust (Amendment) Act, 1892.
"	II	An Act to amend Acts I and VII of 1884 (Madras).	The Madras City Municipal (Amendment) Act, 1892.
1893	II	An Act to amend section 13 of the Land Customs Act, VI of 1844.	The Madras Inland Customs (Amendment) Act, 1893.
"	V	An Act for facilitating enquiries into matters connected with the administration of the Revenue and into the conduct of Public Servants.	The Madras Revenue Enquiries Act, 1893.
1894	I	An Act to provide further for the conduct of business by the Board of Revenue.	The Madras Board of Revenue Act, 1894.
1895	II	An Act to amend Madras Act II of 1890 .	The Madras Canals and Public Ferries (Amendment) Act, 1895.
1896	I	An Act to limit the local extent of the Madras Rent Recovery Act, VIII of 1865.	The Madras Rent Recovery (Amendment) Act, 1896.
"	II	An Act to amend the Madras General Clauses Act I of 1891.	The Madras General Clauses (Amendment) Act, 1896.
1897	I	An Act to amend the Madras Revenue Recovery Act II of 1864.	The Madras Revenue Recovery (Amendment) Act, 1897.
"	II	An Act to amend Madras Act No. III of 1895 (the Madras Hereditary Village-offices Act, 1895).	The Madras Hereditary Village-offices (Amendment) Act, 1897.
1898	I	An Act to amend the Malabar Marriage Act, 1896.	The Malabar Marriage (Amendment) Act, 1898.
"	II	An Act to amend Madras Act II of 1886 (the Madras Harbour Trust Act).	The Madras Harbour Trust (Amendment) Act, 1898.

• 1898

THE FIRST SCHEDULE—*concl'd.*

1	2	3	
Year.	No.	Subject.	Short title.
<i>Part III.—Acts of the Governor of Fort St. George in Council—concl'd.</i>			
1898	III	An Act to amend the Madras City Police Act, 1888.	The Madras City Police (Amendment) Act, 1898.
1899	I	An Act to amend Madras Act IV of 1884 .	The Madras District Municipalities (Amendment) Act, 1899.
„	II	An Act to amend Madras Act I of 1884 .	The Madras City Municipal (Amendment) Act, 1899.
„	IV	An Act to amend Madras Regulation V of 1884.	The Madras Court of Wards (Amendment) Act, 1899.
1900	III	An Act to amend the Madras Harbour Trust Act, 1885.	The Madras Harbour Trust (Amendment) Act, 1900.
„	IV	An Act to amend the Madras Proprietary Estates' Village Service Act, 1894, and the Madras Survey and Boundaries Act, 1897.	The Madras Proprietary Estates and Survey (Amendment) Act, 1900.
„	V	An Act to amend Madras Act VII of 1865.	The Madras Irrigation Cess (Amendment) Act, 1900.

THE

1901.]

Repealing and Amending.

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

[See section 3, sub-section (1).]

1	2	3	4
Year.	No.	Short title.	Amendment.
<i>Part I.—Madras Regulations.</i>			
1802	XXVI	The Madras Land Registration Regulation, 1802.	In the title, <i>for the words</i> sale and subdivision of Málguzári lands <i>substitute</i> registration of landed estates paying revenue to the Government. In the preamble, <i>omit the words from</i> Whereas it is necessary to such lands; and ; <i>and for the words</i> such lands <i>substitute</i> landed estates paying revenue to the Government.
1817	VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.	For the title, as amended by the Repealing and Amending (Army) Act, 1894, <i>substitute the following</i> : A Regulation for regulating the procedure where the estate of a native officer or soldier in the Madras Command becomes liable to sale for an arrear of revenue.
1822	IV	The Madras Permanent Settlement (Interpretation) Regulation, 1822.	In the title, <i>for the words and figures</i> Regulations XXV, XXVIII, and XXX of 1802, so far as they relate, <i>read</i> Regulation XXV of 1802, so far as it relates. In section 2, <i>for the words and figures</i> Regulations XXV, XXVIII and XXX of 1802, <i>read</i> Regulation XXV of 1802.
1823	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.	For the title, <i>substitute the following</i> : A Regulation to supplement the provisions of the Madras Revenue Malversation Regulation, 1822.
1829	V	The Madras Hindu Wills Regulation, 1829.	In the preamble, <i>for the words</i> clause second of the said section, <i>read</i> clause second of section 16 of the Madras Administration of Estates Regulation, 1802.
<i>Part II.—Act of the Governor General in Council.</i>			
1899	XIII	The Glanders and Farcy Act, 1899.	To section 2, sub-section (1), <i>add</i> either generally or in respect of any local area.

• *Part III.*

THE SECOND SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Short title.	Amendment.
<i>Part III.—Acts of the Governor of Fort St. George in Council.</i>			
1862	IV	The Madras Enfranchised Inams Act, 1862.	For the title, <i>substitute the following</i> : An Act to declare what shall be proof of the enfranchisement of inams.
1866	V	The Madras Labour and Emigration Act, 1866.	To section 21 <i>add</i> But nothing in this Act shall apply to the emigration of labourers to any of the labour-districts in the Province of Assam from any local area to which the provisions of the Assam Labour and Emigration Act, 1901, for time being apply.
1884	V	The Madras Local Boards Act, 1884.	In section 3, clause (xiv), as substituted by section 5 of the Madras Local Boards Act Amendment Act, 1900, <i>for the figures</i> 1882, <i>substitute</i> 1898.

THE

1901.]

Repealing and Amending.

THE THIRD SCHEDULE.

ENACTMENTS REPEALED.

[See section 3, sub-section (2).]

1	2	3	4
Year.	No.	Subject or short title.	Extent of Repeal.
<i>Part I.—Madras Regulations.</i>			
1802	III	The Madras Administration of Estates Regulation, 1802.	In the second clause of section 16, <i>the words</i> taking the opinion of their law officers <i>to the words</i> points of law that may occur <i>and the words</i> as expounded by his law officers <i>to the end of the clause.</i>
			In the seventh clause of section 16, <i>the words</i> or if the deceased were an European, in the Madras Gazette.
"	V	A Regulation for constituting a Sadr Adalat, or Chief Court of Civil Judicature, for trying appeals from the decisions of the Provincial Courts of Appeal.	So much as is unrepealed.
"	XIII	A Regulation for preserving complete the records of the Civil and Criminal Courts of Judicature, and for enabling the Sadr Adalat to judge of the progress made by the Zila and Provincial Courts in the determination of causes.	So much as is unrepealed.
"	XIX	The Indian Civil Service (Madras) Loans Prohibition Regulation, 1802.	The title <i>from the words</i> and for prohibiting Europeans, <i>to</i> sanction of Government.
1804	V	The Madras Court of Wards Regulation, 1804.	In the third clause of section 7 <i>the words</i> Courts of Appeal or to the, <i>the words</i> as it shall seem fit <i>and the word</i> respectively.
1816	IV	A Regulation for declaring the head inhabitants of villages to be Munsifs in their respective villages, to hear and decide civil suits for sums of money, or other personal property, to a limited amount, and for defining their jurisdiction.	So much as is unrepealed.

1822

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THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of Repeal.

Part I.—Madras Regulations—contd.

1822	IX	The Madras Revenue Malversation Regulation, 1822.	In the preamble, <i>the words</i> and whereas it is necessary to declare the powers to be exercised by criminal judges and Courts of Circuit in the punishment of the offences of bribery and corruption, and the other offences specified in this Regulation; and whereas the provisions of Regulation XXXIII of 1802 have been found inefficient for the purpose for which they were intended, and it is therefore deemed proper to rescind that Regulation.
1829	V	The Madras Hindu Wills Regulation, 1829.	In the preamble, <i>the words</i> from clause first to Provinces of this Government, yet, <i>the word</i> last, and <i>the words</i> above-quoted.
1831	VII	A Regulation for rescinding the existing Regulation of the 31st of December, 1817, relating to the conduct of the trade between the British possessions in India and the countries and States in amity with His Majesty, and for making other provisions in lieu thereof.	So much as is unrepealed.

Part II.—Acts of the Governor General in Council.

1855	X	An Act to amend the law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay.	So much as is unrepealed.
1874	XV	The Laws Local Extent Act, 1874.	So much of the second schedule as relates to Madras Regulations V and XIII of 1802. So much of the second and third schedules as relates to Act X of 1855 (<i>Recusant Witnesses</i>).
1879	XVI	The Transport of Salt Act, 1879.	Section I, <i>the words</i> and it shall come into force at once.

1901.]

*Repealing and Amending.*THE THIRD SCHEDULE—*contd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of Repeal.

Part II.—Acts of the Governor General in Council.—contd.

1895	XVII	The Marriages Validation (Bangalore) Act, 1895.	The whole Act.
1899	VIII	The Indian Petroleum Act, 1899.	In section 5, sub-section (1), the words granted as next hereinafter provided.
"	XV	The Marriages Validation (Pudukkottai and Travancore) Act, 1899.	The whole Act.
1901	II	The Indian Tolls (Army) Act, 1901.	So much of the Schedule as relates to the Madras Local Boards Act, 1884.

Part III.—Acts of the Governor of Fort St. George in Council.

1862	IV	The Madras Enfranchised Inams Act, 1862.	The preamble to the word and where it occurs after the word Government.
			Section 1.
1865	I	The Madras District Limits Act, 1865.	In the title the words Stations of Zila Courts and.
1876	I	The Madras Land-revenue Assessment Act, 1876.	Section 9.
1878	VII	The Madras Municipal Police Act, 1878.	Section 2.
1879	III	The Madras Hackney-carriage Act, 1879.	Section 2.
1881	I	The Madras Ports Police Act, 1881.	Section 15.
1884	I	The City of Madras Municipal Act, 1884.	Section 2.
"	V	The Madras Local Boards Act, 1884.	In section 87, sub-section (3), as amended by the Madras Local Boards Amendment Act, 1900, the words troops, military stores and baggage, military and; and the words military or.
1888	I	The Local Authorities' Loan Act, 1888.	In section 1, the words and shall come into force upon the passing thereof.

1888

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THE THIRD SCHEDULE—*concl'd.*

1	2	3	4
Year.	No.	Subject or short title.	Extent of Repeal.
<i>Part III.—Acts of the Governor of Fort St. George in Council—contd.</i>			
1888	II	The Places of Public Resort Act, 1888.	Sub-section (2) of section 1.
"	III	The Madras City Police Act, 1888.	Sub-section (3) of section 1, section 2 and Schedule.
1889	I	The Madras Village Courts Act, 1888.	Section 2 and Schedule.
"	III	The Towns Nuisances Act, 1889.	Section 2 and Schedule.
"	IV	The Madras Salt Act, 1889	Section 2 and Schedule.
1890	II	The Canals and Public Ferries Act, 1890.	Section 2.
1892	I	The Madras Harbour Trust (Amendment) Act, 1892.	Section 1.
"	II	The Madras City Municipal (Amendment) Act, 1892.	Section 2.
1893	I	An Act to repeal certain obsolete enactments.	The whole Act.
"	IV	The Madras Village-cess Act, 1893.	Section 3.
1894	I	The Madras Board of Revenue Act, 1894.	Section 1.
1895	I	An Act to repeal Madras Act I of 1890.	The whole Act.
"	III	The Madras Hereditary Village-offices Act, 1895.	In section 2, sub-section (1), the words and figures Madras Regulations II of 1906 and VI of 1831 are hereby repealed; and.
1896	V	An Act to repeal Madras Act III of 1882, etc.	The whole Act.
1898	IV	An Act to repeal Madras Act I of 1880.	The whole Act.
1900	I	The Malabar Compensation for Tenants' Improvements Act, 1899.	Section 2.

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15-7-04

ACT NO. III OF 1902.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th February, 1902.)

An Act further to amend the Indian Steam-ships Act, 1884, and to validate certain certificates granted to engine-drivers of steam-ships.

VII of 1884. WHEREAS it is expedient further to amend the Indian Steam-ships Act, 1884, and to validate certain certificates granted to engine-drivers of steam-ships; It is hereby enacted as follows:—

1. This Act may be called the Indian Steam-ships (Amending and Validating) Act, 1902. Short title.

VII of 1884. 2. In section 23 of the Indian Steam-ships Act, 1884, the word "foreign", where it first occurs, shall be omitted; for the words "at the port of survey" the words "at the port where the survey was made" shall be substituted; and in the proviso, after the words "in the case of" the words "a foreign steam-ship to" shall be inserted. Amendment of section 23, Act VII, 1884.

3. In section 25 of the said Act, after the word "specified" the words "steam-ship or" shall be inserted, and for the words "to them" the word "thereto" shall be substituted. Amendment of section 25, Act VII, 1884.

VII of 1884. 4. All certificates of competency granted under the authority of the Commissioner in Sind between the first day of December, 1885, and the third day of July, 1900, to certify the competency of the grantees thereof to act as engine-drivers of steam-ships, shall be deemed to have been granted under the Indian Steam-ships Act, 1884, and shall be recognised as valid for voyages of those classes with reference to, which they were granted: Validation of certain certificates granted in Sind to engine-drivers of steam-ships.

Provided

[Price one anna and three pies.]

Indian Steam-ships. [ACT III, 1902.]

Provided that nothing in this section shall be deemed to affect such certificates in any other respect.

ACT NO. XIII OF 1891.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 21st March, 1891.)

An Act to amend the Inland¹ Steam-vessels Act, 1884.

VI of 1884.

WHEREAS it is expedient to amend the Inland Steam-vessels Act, 1884; It is hereby enacted as follows:—

1. For Chapter III of the said Act the following shall be substituted, namely:—

Substitution of new Chapter for Chapter III, Act VI, 1884.

“CHAPTER III.

“MASTERS (INCLUDING SERANGS), AND ENGINEERS (INCLUDING ENGINE-DRIVERS), OF INLAND STEAM-VESSELS.

“22. The Local Government may, from time to time, appoint persons for the purpose of examining the qualifications of persons desirous of obtaining certificates of competency as masters or serangs, or as engineers or engine-drivers, of inland steam-vessels.

Appointment of examiners.

“23. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act as a first-class master, second-class master or serang, as the case may be, of an inland steam-vessel.

Grant of masters' and serangs' certificates of competency.

“(2) Every certificate granted under this section shall be in the prescribed form.

“24. (1) The Local Government shall grant to every person who is reported by the examiners to possess the necessary qualifications a certificate of competency to the effect that he is competent to act

Grant of engineers' and engine-drivers' certificates of competency.

as

[Price two annas and three pies.]

as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, of an inland steam-vessel.

“(2) Every certificate granted under this section shall be in the prescribed form.

Power for
Local Gov-
ernment to
require re-
examination
or further
inquiry.

“25. Before granting a certificate under either of the two last foregoing sections, the Local Government may, if it has reason to believe that the report of the examiners regarding any applicant has been unduly made, require a re-examination of the applicant or a further inquiry into his testimonials and character.

Grant of cer-
tificates of
service.

“25A. (1) The Local Government may in its discretion grant without examination to any person who has served as a master, or as an engineer, of an inland steam-vessel before the first day of April, 1890, a certificate of service to the effect that he may act as a first-class master, second-class master or serang, or as an engineer, first-class engine-driver or second-class engine-driver, as the case may be, of an inland steam-vessel.

“(2) A certificate of service so granted shall have the same effect as a certificate of competency granted under this Act after examination.

Certificates
to be made
in duplicate.

“26. Every certificate of competency or service granted under this Act shall be made in duplicate, and one copy shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded in the prescribed manner.

Copy of certi-
ficate to be
granted in
certain cases.

“27. Whenever a master or serang, or an engineer or engine-driver, proves, to the satisfaction of the Local Government which granted his certificate, that he has, without fault on his part, lost or been deprived of it, a copy of the certificate to which, by the record kept as provided by law, he appears to be entitled shall be granted to him, and shall have all the effect of the original.

Nature of
certificates
necessary in
case of differ-
ent steam-
vessels.

“28. (1) An inland steam-vessel having engines of eighty nominal horse-power or upwards shall not proceed on any voyage unless she has—

“(a) as her master a person possessing a first-class master's

17 & 18 Vict.,
c. 104, &c.

32 & 33 Vict.,
c. 11.

VII of 1884.

master's certificate granted under this Act or a master's certificate granted under Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, and

- (b) as her engineer a person possessing an engineer's certificate granted under this Act or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869.

“(2) An inland steam-vessel having engines of thirty nominal horse-power or upwards but of less than eighty nominal horse-power shall not proceed on any voyage unless she has—

- (a) as her master a person possessing a second-class master's certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1), and

- (b) as her engineer a person possessing a first-class engine-driver's certificate granted under this Act or an engine-driver's certificate granted under the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1):

VII of 1884.

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a second-class master's certificate and a first class engine-driver's certificate granted under this Act, or, in substitution for either of such certificates, as the case may be, a master's certificate or an engineer's certificate of the higher grade of the nature referred to in sub-section (1).

“(3) An

“(3) An inland steam-vessel having engines of less than thirty nominal horse-power shall not proceed on any voyage unless she has—

(a) as her master a person possessing a serang’s certificate granted under this Act or a certificate of the higher grade of the nature referred to in clause (a) of sub-section (1) or sub-section (2), and

(b) as her engineer a person possessing a second-class engine-driver’s certificate granted under this Act or an engine-driver’s certificate granted under the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (b) of sub-section (1) or sub-section (2):

VII of 1884.

Provided that a steam-vessel shall be deemed to have complied with this sub-section if she has as her master and engineer a person possessing both a serang’s certificate and a second-class engine-driver’s certificate granted under this Act, or, in substitution for either of such certificates, as the case may be, a master’s certificate or an engineer’s or engine-driver’s certificate of the higher grade of the nature referred to in sub-section (1) or sub-section (2).

“(4) Notwithstanding anything in sub-section (1), sub-section (2) or sub-section (3), the Local Government may, by general or special order, direct that a person possessing a master’s certificate granted under Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*) or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, or possessing an engineer’s certificate granted under the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1889, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869, shall not act as master or engineer, as the case may be, of an inland steam-vessel unless he also possesses, in the case of a master, such a master’s or serang’s certificate granted under this Act

17 & 18 Vict.,
c. 104, &c.

32 & 33 Vict.,
c. 11.

as qualifies him under this section to act as master of the vessel, or, in the case of an engineer, such an engineer's or engine-driver's certificate granted under this Act as qualifies him under this section to act as engineer of the vessel :

“ Provided that, for the purposes of this sub-section, the Local Government may, in its discretion, grant without examination a master's or serang's, or an engineer's or engine-driver's, certificate of competency under this Act, and that a certificate of competency so granted without examination shall have the same effect as a certificate of competency granted under this Act after examination. .

“ 29. (1) The Local Government may make rules to regulate the granting of certificates of competency under this Act, and may by such rules—

Power for Local Government to make rules as to grant of certificates of competency and certificates of service.

(a) provide for the conduct of the examination of persons desirous of obtaining certificates of competency as masters or serangs, or as engineers or engine-drivers, under this Act ;

(b) prescribe the qualifications to be respectively required of persons desirous of obtaining first-class masters' certificates, second-class masters' certificates, serangs' certificates, engineers' certificates, first-class engine-drivers' certificates, and second-class engine-drivers' certificates, respectively ;

(c) fix the fees to be paid by all applicants for examination ; and

(d) prescribe the form in which certificates are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded.

“ (2) The Local Government may also make rules with respect to the grant of certificates of service under this Act, and may by such rules—

(a) fix the fees to be paid for such certificates, and

(b) prescribe the form in which such certificates are

Inland Steam-vessels. [ACT XIII, 1891.]

are to be framed and the manner in which the copy of the certificate which is kept by the Local Government is to be recorded."

Substitution
of new clause
for clause (c),
section 43,
Act VI,
1884.

2. For clause (c) of section 43 of the said Act the following shall be substituted, namely:—

"(c) if, in the case of a second-class master or serang, or of an engine-driver, the master or serang, or the engine-driver, is or has become, in the opinion of the Local Government, unfit to act as a second-class master or serang, or as an engine-driver, as the case may be;".

Repeal of
sections 9, 10
and 11, Act
III, 1890.

3. Sections 9, 10 and 11 of Act III of 1890 (*an Act to amend Acts VI and VII of 1884*) are hereby repealed.

No. 635
11/8/99 ✓

ACT NO. VII OF 1899.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 17th
February, 1899.)

An Act to further amend the Inland Steam-
vessels Act, 1884.

VI of 1884.

WHEREAS it is expedient to further amend the
Inland Steam-vessels Act, 1884 (hereinafter refer-
red to as "the said Act"); It is hereby enacted as
follows :—

1. (1) This Act may be called the Inland Steam-
vessels Act (1884) Amendment Act, 1899; and
(2) It shall come into force at once.
2. After section 29 of the said Act the following
section shall be added, namely :—

" 29A. Every certificate of competency or service
granted under this Act shall have effect throughout
British India."

3. To the heading to Chapter VI of the said Act
the words " AND FROM COLLISION " shall be added.
4. After section 50 of the said Act the following
section shall be added, namely :—

" 50A. (1) The Local Government may make
rules for the protection of inland steam-vessels from
collision.
(2) Rules under this section may regulate the
following among other matters, that is to say :—
(a) the making of sound-signals ;

Short title
and com-
mencement.

Addition of
new section
after section
29, Act VI,
1884.

Certificates of
competency
or service to
have effect
throughout
British India.

Addition to
heading to
Chapter VI,
Act VI, 1884.

Addition of
new section
after section
50, Act VI,
1884.

Power for
Local Gov-
ernment to
make rules
for protection
of inland
steam-vessels
from collision.

(b) the

[Price one anna three pias.]

Inland Steam-vessels. [ACT VII, 1899.]

- (b) the carriage and exhibition of lights by inland steam-vessels ;
- (c) the carriage and exhibition of lights by other vessels on inland waters on which steam-vessels ply and which are specified in the rules ;
- (d) the steering rules to be observed ; and
- (e) the towing of vessels astern or alongside.

(3) Any rule under this section may contain a provision that any person committing a breach of it shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both."

Registered No. 216
27. 7. 94.



Divisional Office, Shau

ACT No. II OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 16th February, 1894.)

An Act to amend the Indian Ports Act, 1889.

of 1889. **WHEREAS** it is expedient to amend the Indian Ports Act, 1889; It is hereby enacted as follows:—

1. For the word “Ditto,” where it occurs against “Balasore Ports” in the fourth column of Part I (Bengal) of the first schedule to the Act aforesaid, the following shall be substituted, namely:—

Amendment
of first sche-
dule to Act
X, 1889, as
regards
Balasore
Ports.

“Whenever the vessel enters any one of the ports, except in the case of mail-steamers and coasting-vessels, which shall not be chargeable more than once in thirty days.”

[Price one anna.]

Sharma
10.8.96



634

ACT No. IV OF 1896.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL,

(Received the assent of the Governor General on the 20th February, 1896.)

An Act to amend the Indian Ports Act, 1889.

X of 1889.

WHEREAS it is expedient to amend the Indian Ports Act, 1889; It is hereby enacted as follows:—

1. (1) In section 6, clause (o), of the said Act, the word “and” shall be omitted, and after clause (p) of the same section the following shall be added, namely:—

Amendment
of section 6,
Act X, 1889.

“and

(q) for securing the protection from heat of the officers and crew of vessels in any such port by requiring the owner or master of any such vessel—

(i) to provide curtains and double awnings for screening from the sun's rays such portions of the deck as are occupied by, or are situated immediately above, the quarters of the officers and crew;

(ii) to erect windsails so far as the existing port-holes or apertures in the deck admit of their being used for ventilating the quarters of the officers and crew;

(iii) when the deck is made of iron and not wood-sheathed, to cover with wooden planks or other suitable non-conducting material such portions of the

[Price one anna and three pies.]

Ports. [ACT IV, 1896.]

the deck as are situated immediately above the quarters of the officers and crew;

- (iv) when the quarters used by the crew and the galley are separated by an iron bulkhead only, to furnish a temporary screen of some suitable non-conducting material between such quarters and the galley."
- — —

no 835
22/7/01
✓

ACT No. III OF 1901.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 22nd February, 1901.)

An Act further to amend the Indian Ports Act, 1889.

WHEREAS it is expedient further to amend the Indian Ports Act, 1889; It is hereby enacted as follows :—

X of 1889. 1. (1) This Act may be called the Indian Ports Act, 1901; and

(2) It shall come into force at once.

X of 1889. 2. (1) For clause (p) of sub-section (1) of section 6 of the Indian Ports Act, 1889, the following shall be substituted, namely :—

Short title and commencement.

“(p) with the previous sanction of the Governor General in Council, for the establishment and regulation of places to be used as sanatoria for the segregation or as hospitals for the treatment of persons who are or have recently been suffering from any dangerous infectious or contagious disease, and for regulating the action, including the disposal of dead bodies, to be taken—

Amendment of section 6, Act X, 1889.

- (i) where a vessel on which there is any case of dangerous infectious or contagious disease common in India, enters or is in any such port;
- (ii) where a vessel on which there is any case of dangerous infectious or contagious disease uncommon in India, enters or is in any such port;

(iii) where

[Price one anna and six pies.]

- (iii) where a vessel on which there has been any case of dangerous infectious or contagious disease or any death within twelve days previous to the arrival of the vessel at such port, enters or is in any such port ;
- (iv) where a vessel enters any such port from a port in which, or in the neighbourhood of which, there is believed to be, or to have been at the time when the vessel left such port, any dangerous infectious or contagious disease uncommon in India ;
- (v) where a vessel enters any such port having on board any person transhipped from a vessel coming from a port in which or in the neighbourhood of which there is believed to be or to have been at the time when such last-mentioned vessel left such last-mentioned port any dangerous infectious or contagious disease uncommon in India ;
- (vi) where there is a dead body on board a vessel in any such port ;
- (vii) where there are on board a vessel in any such port food-stuffs which, owing to decomposition or for any other reason, are, in the opinion of the Health Officer, unfit for human consumption ; or
- (viii) where a vessel leaves any such port while there is in the port or in its neighbourhood any dangerous infectious or contagious disease uncommon in India.

For the purposes of this clause only such diseases shall be deemed to be dangerous infectious or contagious diseases, or diseases common or uncommon in India, as the Governor General in Council may by order direct."

(2) After sub-section (2) of the same section the following sub-sections shall be inserted, namely :—

"(3) If any person disobeys any rule made under clause (p) of sub-section (1), he shall be punished for every

1901.]

Ports.

every such offence with fine which may extend to one thousand rupees.

(4) If a master fails wholly or in part to do any act prescribed by any rule made under clause (p) of sub-section (1), the Health Officer shall cause such act to be done, and the reasonable expenses incurred in doing such act shall be recoverable by him from such master."

I of 1870.

3. The Indian Quarantine Act, 1870, is hereby repealed.

Repeal of
Act I, 1870.



Registered No. 23
2-3-95
Civil Branch
Shayma

ACT No. III OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 23rd February, 1894.)

An Act to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code; It is hereby enacted as follows:—

Code of Criminal Procedure, 1882.

1 To section 44 of the Code of Criminal Procedure, 1882, the following shall be added, namely:—

Addition to section 44 of Code of Criminal Procedure, 1882.

“Any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460, shall be deemed to be an offence for the purposes of this section.”

2. In section 45 of the Code of Criminal Procedure, 1882, the following shall be added after clause (d) and substituted for the *Explanation*, namely:—

Addition to section 45 of same Code.

“(e) the commission of, or intention to commit, at any place out of British India, near such village any act, which, if committed in British India, would be an offence punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

“In this section—

(i) ‘village’ includes village lands; and

(ii) the

[Price one anna and nine pies.]

Amendment of Code of Criminal Procedure. [ACT III

(ii) the expression 'proclaimed offender' includes any person proclaimed as an offender by any Court or authority established or continued by the Governor General in Council in any part of India in respect of any act, which, if committed in British India, would be punishable under any of the following sections of the Indian Penal Code, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460."

XLV of 186

Amendment of, and addition to, section 54 of same Code.

3. In section 54 of the Code of Criminal Procedure, 1882, the word "and" in clause *fifthly* is repealed, the word "and" shall be added to clause *sixthly*, and the following shall be inserted after clause *sixthly*, namely :—

X of 1882.

"*seventhly*, any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of British India, which, if committed in British India, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in British India."

44 & 45 Vict c. 69.

Addition to Schedule II of same Code.

4. In Schedule II of the Code of Criminal Procedure, 1882, immediately after the entries relating to section 216 of the Indian Penal Code, the following shall be inserted, namely :—

X of 1882.

XLV of 186

Column 1.	Column 2.	Column 3.	Column 4.	Column 5.	Column 6.	Column 7.	Column 8.
216A	Harbouring robbers or dacoits.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for seven years and fine.	Court of Session, Presidency Magistrate or Magistrate of the first class.

Indian

27. 7. 94.

220

Office, Dharmav

ACT No. X OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL,
(Received the assent of the Governor General on the 29th March
1894.)

An Act to amend the Code of Criminal Procedure, 1882.

of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

1. In section 44 of the said Code the figures "143, 144, 145, 147, 148," shall be inserted between the figures "130" and the figures "302".

Amendment of section 44, Act X, 1882.

2. (1) For the part of section 45 of the said Code beginning with the words "Every village-headman" and ending with the words "under suspicious circumstances" the following shall be substituted, namely:—

Amendment of section 45, Act X, 1882, and addition of a section thereafter.

"45. Every village-headman, village-accountant, village-watchman, village-police-officer, owner or occupier of land, and the agent of any such owner or occupier, and every officer employed in the collection of revenue or rent of land on the part of Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station, whichever is the nearer, any information which he may obtain respecting—

Village-headmen, accountants, land-holders and others bound to report certain matters.

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman, accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent:—

(b) the resort to any place within, or the passage through, such village of any person whom he

[Price one anna and three pies.]

he knows, or reasonably suspects, to be a thug, robber, escaped convict or proclaimed offender ;

- (c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147 or 148 of the Indian Penal Code ;

XLV of 1860,

- (d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances ;”.

(2) In the same section, after clause (e), added by section 2 of Act III of 1894, the following shall be inserted, namely :—

“(f) any matter likely to affect the maintenance of order or the prevention of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Local Government, has directed him to communicate information.”

(3) After the same section the following section shall be added, namely :—

Appointment
of village-
headmen by
District
Magistrate in
certain cases
for purposes
of section 45.

“45 A. Subject to rules in this behalf to be made by the Local Government, the District Magistrate may from time to time appoint one or more persons to be village-headmen for the purposes of the last foregoing section in any village for which there is no such headman appointed under any other law.”

Registered No. 246
12 6 9
Divisional Secret Office,
Dharwar

ACT NO. IV OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 8th February, 1895.)

An Act to amend sections 366 and 371 of the
Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend sections 366
and 371 of the Code of Criminal Procedure, 1882;
It is hereby enacted as follows:—

1. For section 366 of the said Code the following
shall be substituted, namely:—

Substitution
of new sec-
tion for sec-
tion 366, Act
X, 1882.

“366. (1) The judgment in every trial in any
Criminal Court of original jurisdiction shall be pro-
nounced, or the substance of such judgment shall be
explained,—

Mode of deli-
vering judg-
ment.

(a) in open Court either immediately after the
termination of the trial or at some subse-
quent time of which notice shall be given
to the parties or their pleaders, and

(b) in the language of the Court; or in some other
language which the accused or his pleader
understands:

Provided that the whole judgment shall be read
out by the presiding Judge, if he is requested so to do
either by the prosecution or the defence.

(2) The accused shall, if in custody, be brought
up, or, if not in custody, shall be required by the
Court to attend, to hear judgment delivered, except
where his personal attendance during the trial has
been dispensed with and the sentence is one of fine

only;

1.

Price: one anna three pies.]

only, in which case it may be delivered in the presence of his pleader.

(3) No judgment delivered by any Criminal Court shall be deemed to be invalid by reason only of the absence of any party or his pleader on the day or from the place notified for the delivery thereof, or of any omission to serve, or defect in serving, on the parties or their pleaders, or any of them, the notice of such day and place.

(4) Nothing in this section shall be construed to limit in any way the extent of the provisions of section 537."

Amendment
of section
371, Act X,
1882.

2. In section 371 of the said Code, for the words "The judgment shall be explained to the accused and on his application" the words "On the application of the accused" shall be substituted.

30/11/96

371

ACT No. XIII OF 1896.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 30th March, 1896.)

An Act to amend the Code of Criminal Procedure, 1882.

X of 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

1. (1) In the first sentence of section 269 of the said Code, after the word "may", where it first occurs, the words "with the previous sanction of the Governor General in Council," and after the word "may", where it next occurs, the words "with the like sanction," shall respectively be inserted.

Amendment
of section
269, Act X,
1882.

(2) After the first sentence of the same section the following shall be inserted, namely:—

"The Local Government, by like order, may also declare that, in the case of any district in which the trial of any offence is to be by jury, the trial of such offence shall, if the Judge, on application made to him or of his own motion, so directs, be by jurors summoned from a special jury list, and may revoke or alter such order."

2. In section 276 of the said Code, before the word "*thirdly*" the word "and" shall be repealed, and to the same section the following shall be added, namely:—

Amendment
of section
276, Act X,
1882.

"and

fourthly, in any district for which the Local Government has declared that the trial of certain offences may be by special jury, the jurors shall, in any case in which the Judge so directs, be chosen from the special jury list prescribed in section 325A."

3. (1) In

[Price one anna and six pies.]

Amendment
of section
307, Act X,
1882.

3. (1) In section 307 of the said Code, for the words "so completely that he considers it" the words "and is clearly of opinion that it is" shall be substituted.

(2) In the same section, for the words "but it may" the words "and subject thereto it shall, after considering the entire evidence and after giving due weight to the opinions of the Sessions Judge and the jury," shall be substituted.

Amendment
of section
319, Act X,
1882.

4. To section 319 of the said Code the following words shall be added, namely :—

"or, if the Local Government, on consideration of local circumstances, has fixed any smaller area in this behalf, within the area so fixed."

Addition of
new section
after section
325, Act X,
1882.

5. After section 325 of the said Code the following section shall be added, namely :—

Preparation
of list of
special jurors.

" 325A. In the case of any district for which the Local Government has declared that the trial of certain offences shall, if the Judge so direct, be by special jury, the Sessions Judge and the Collector of such district or other officer as aforesaid shall prepare, in addition to the revised list hereinbefore prescribed, a special list containing the names of such jurors as are borne on the revised list and are, in the opinion of such Sessions Judge and Collector or other officer as aforesaid, by reason of their possessing superior qualifications in respect of property, character or education, fit persons to serve as special jurors: Provided always that the inclusion of the name of any person in such special list shall not involve the removal of his name from the revised list nor relieve him of his liability to serve as an ordinary juror in cases not tried by special jury."

Amendment
of section
326, Act X,
1882.

6. In section 326 of the said Code, after the words "the said revised list" the words "or the said special list" shall be inserted, and the words "on the revised list" shall be omitted.

7. After

1896.]

Criminal Procedure.

7. After section 330 of the said Code the following section shall be added, namely :—

Addition of
new section
after section
330, Act X,
1882.

“330A. The Court of Session may, if it shall think fit, at the conclusion of any trial by special jury direct that the jurors who have served on such jury shall not be summoned to serve again as jurors for a period of twelve months.”

Court may
relieve
special jurors
from liability
to serve again
as jurors for
twelve
months.

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6/6/98
✓

ACT No. IV OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 18th February, 1898.)

An Act to amend the Indian Penal Code.

XLV of 1860. WHEREAS it is expedient to amend the Indian Penal Code; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Penal Code Amendment Act, 1898 ; and Short title and commencement.

(2) It shall come into force at once.

XLV of 1860. 2. Section 4 of the Indian Penal Code is hereby repealed and the following section is substituted therefor, namely :— Substitution of new section for section 4, Act XLV, 1860. Extension of Code to extra-territorial offences.

“ 4. The provisions of this Code apply also to any offence committed by—

- (1) any Native Indian subject of Her Majesty in any place without and beyond British India ;
- (2) any other British subject within the territories of any Native Prince or Chief in India ;
- (3) any servant of the Queen, whether a British subject or not, within the territories of any Native Prince or Chief in India.

Explanation.—In this section the word ‘ offence ’ includes every act committed outside British India which, if committed in British India, would be punishable under this Code.

Illustrations. —

(a) A, a coolie, who is a Native Indian subject, commits a murder in Uganda. He can be tried and convicted of murder

[Price one anna nine pies.]

murder in any place in British India in which he may be found.

(b) B, a European British subject, commits a murder in Kashmir. He can be tried and convicted of murder in any place in British India in which he may be found.

(c) C, a foreigner who is in the service of the Punjab Government, commits a murder in Jhind. He can be tried and convicted of murder at any place in British India in which he may be found.

(d) D, a British subject living in Indore, instigates E to commit a murder in Bombay. D is guilty of abetting murder."

3. After section 108 of the Indian Penal Code XLV of 1860. the following section shall be added, namely :—

"108A. A person abets an offence within the meaning of this Code who, in British India, abets the commission of any act without and beyond British India which would constitute an offence if committed in British India.

Illustration.

A, in British India, instigates B, a foreigner in Goa, to commit a murder in Goa:—A is guilty of abetting murder."

4. Section 124A of the Indian Penal Code is hereby repealed, and the following section is substituted therefor, namely :— XLV of 1860.

"124A. Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, Her Majesty or the Government established by law in British India, shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression 'disaffection' includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without

Insertion of new section after section 108, Act XLV, 1860. Abetment in British India of offences outside it.

Substitution of new section for section 124A, Act XLV, 1860. Sedition.

without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

XLV of 1860.

5. After section 153 of the Indian Penal Code the following section shall be inserted, namely :—

Addition of new section after section 153, Act XLV, 1860. Promoting enmity between classes.

"153A. Whoēvēr by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Explanation.—It does not amount to an offence within the meaning of this section to point out, without malicious intention and with an honest view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different classes of Her Majesty's subjects."

XLV of 1860.

6. Section 505 of the Indian Penal Code is hereby repealed and the following section is substituted therefor, namely :—

Substitution of new section for section 505, Act XLV, 1860. Statements conducing to public mischief.

"505. Whoever makes, publishes or circulates any statement, rumour or report,—

(a) with intent to cause, or which is likely to cause, any officer, soldier or sailor in the army or navy of Her Majesty or in the Royal Indian Marine or in the Imperial Service Troops to mutiny or otherwise disregard or fail in his duty as such ; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against

against the State or against the public tranquillity ; or

- (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community ;

shall be punished with imprisonment which may extend to two years, or with fine, or with both.

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it without any such intent as aforesaid."

Indian Penal Code.

XLV of 1860.

5. To section 177 of the Indian Penal Code the following shall be added, namely :—

Addition to
section 177
of Indian
Penal Code.

“*Explanation.*—In section 176 and in this section the word ‘offence’ includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and the word ‘offender’ includes any person who is alleged to have been guilty of any such act.”

6. To section 203 of the said Code the following shall be added, namely :—

Addition to
section 203
of same Code.

“*Explanation.*—In sections 201 and 202 and in this section the word ‘offence’ includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.”

XLV of 1860.

7. In section 212 of the Indian Penal Code, immediately before the *Exception* the following shall be inserted, namely :—

Addition to
section 212 of
same Code.

“‘Offence’ in this section includes any act committed at any place out of British India, which, if committed in British India, would be punishable under any of the following sections, namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460; and every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in British India.”

8. After section 216 of the said Code the following shall be inserted, namely :—

Addition of
new sections
after section
216 of same
Code.

“216A. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them

Penalty for
harbouring
robbers or
dacoits.

or

”

Amendment of Indian Penal Code. [ACT III, 1894.]

or any of them, with the intention of facilitating the commission of such robbery or dacoity or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

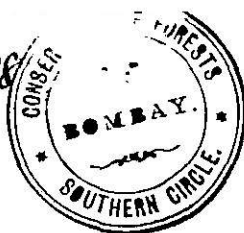
*“Explanation.—*For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without British India.

*“Exception.—*This provision does not extend to the case in which the harbour is by the husband or wife of the offender.

Definition of
'harbour' in
sections 212,
216 and
216A.

“216B. In sections 212, 216 and 216A the word 'harbour' includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person in any way to evade apprehension.”

Registered No. 218
27.7.94.



Divisional Staff
Dharwar
✓

ACT No. V OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd March, 1894.)

An Act to amend the Code of Civil Procedure.

XIV of 1882. WHEREAS it is expedient to amend the Code of Civil Procedure; It is hereby enacted as follows:—

1. (1) This Act may be called the Civil Procedure Code Amendment Act, 1894; and

Title and commencement.

(2) It shall come into force at once.

XIV of 1882.

2. After section 310 of the Code of Civil Procedure the following shall be inserted, namely:—

Addition of new section after section 310 of Code.

“310A. Any person whose immoveable property has been sold under this Chapter may at any time within thirty days from the date of sale apply to have the sale set aside on his depositing in Court—

Application by judgment-debtor to set aside sale on deposit of debt.

(a) for payment to the purchaser, a sum equal to five per centum of the purchase-money, and

(b) for payment to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered, less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder.

“If such deposit is made within the thirty days, the Court shall pass an order setting aside the sale.”

“Provided that, if a person applies under the next following section to set aside the sale of his immoveable property, he shall not be entitled to make an application under this section.

“Nothing

[Price one anna and three pies.]

ACT V, 1894.]

Civil Procedure.

“Nothing in this section shall be construed to relieve the judgment-debtor from any liability he may be under in respect of costs and interest not covered by the proclamation of sale.”

Amendment
of section 315
of Code

3. In section 315 of the Code of Civil Procedure XIV of 1882, the figures and letter “310A” shall be inserted after the word “section” and before the figures “312”.

ACT No. VII OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 1st March, 1895.)

An Act to amend certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872.

XIV of 1882.

V of 1872.

WHEREAS it is expedient to amend certain sections of the Code of Civil Procedure and the Punjab Laws Act, 1872; It is hereby enacted as follows:—

Code of Civil Procedure.

1. (1) In the third paragraph of section 39 of the said Code, between the words "of any High Court established by Royal Charter" and the words "shall be required," the words "or of the Chief Court of the Punjab" shall be inserted.

Amendment of section 39, Act XIV, 1882.

(2) To the said section the following Explanation shall be added, namely:—

"*Explanation.*—For the purposes of the enrolment of advocates the High Court of Bombay shall be at liberty to treat the Sadr Court of Sind as within the local limits of its jurisdiction."

2. For the first and second paragraphs of section 180 of the said Code the following shall be substituted, namely:—

Amendment of section 180, Act XIV, 1882.

"The other party shall then state his case and produce his evidence (if any), and may then address the Court generally on the whole case."

"The party beginning may then reply generally on the whole case."

Punjab.

[Price one anna and three pies.]

Punjab Laws Act, 1872.

Repeal of
sections 17
and 18,
Act IV,
1872.

Substitution
of new
section for
section 51,
Act IV,
1872.

Republica-
tion of rules
and orders.

3. Sections 17 and 18 of the Punjab Laws Act, 1872, as amended by Act XII of 1878, are hereby re- IV of 1872.
pealed.

4. For section 51 of the same Act the following
section shall be substituted, namely :—

“51. All rules which the Local Government is empowered, to issue under this Act, and all circulars issued by the Chief Court, shall be republished from time to time by the Local Government, with the previous sanction of the Governor General in Council, and upon such republication shall be arranged in the order of their subject-matter; and all such alterations or amendments as may have been made since the last preceding publication thereof, or may have become necessary or advisable, shall be embodied therewith; and upon such republication all such rules and circulars previously issued shall be repealed.”

ACT NO. XIII OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 25th July, 1895.)

An Act to amend sections 632 and 652 of the Code of Civil Procedure.

IV of 1882. WHEREAS it is expedient to amend sections 632 and 652 of the Code of Civil Procedure; It is hereby enacted as follows:—

1. In section 632 of the said Code, after the word “chapter” the words and figures “and in section 652” shall be added. Amendment of section 632, Act XIV, 1882.

2. To section 652 of the said Code the following shall be added, namely:— Amendment of section 652, Act XIV, 1882.

“Notwithstanding anything in this Code contained, any High Court established under the said Act for establishing High Courts of Judicature in India may make such rules consistent with the Letters Patent establishing it to regulate its own procedure in the exercise of its original civil jurisdiction, as it shall think fit.

“All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.”

[Price one anna.]

ACT NO. XIII OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA, IN COUNCIL.
(Received the assent of the Governor General on the 12th October, 1894.)

An Act to amend certain enactments relating to the Army.

WHEREAS it is expedient to amend certain enactments relating to the Army in manner hereinafter appearing; It is hereby enacted as follows:—

1. (1) This may be called the Repealing and Amending (Army) Act, 1894; and

Title and commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, fix in that behalf.

2. (1) The enactment specified in the first schedule is hereby repealed to the extent mentioned in the third column thereof.

Repeal and amendment of enactments.

(2) The enactments specified in the second schedule are hereby modified to the extent and in the manner mentioned in the third column thereof.

THE FIRST SCHEDULE.

ENACTMENT REPEALED.

Number and year.	Title.	Extent of repeal.
1	2	3
<i>Act of the Governor General in Council.</i>		
XI of 1877	Military Lunatics Act, 1877.	In sections 4 and 6 the words divisions or. In section 7 the word division.

THE

[Price one anna and six pies.]

Repealing and Amending (Army). [ACT XIII

THE SECOND SCHEDULE.

ENACTMENTS AMENDED.

Number and year.	Title of subject.	Amendments.
1	2	3

Act of the Governor General in Council.

XI of 1877	Military Lunatics Act, 1877.	In section 3, for Act for punishing Mutiny and Desertion and for the better payment of the Army and their quarters for the time being in force read Army Act; for military regulations of the Presidency to which he belongs read military regulations in force for the time being; for one of the Surgeons-General, either of the British Forces or of the Indian Medical Service, according to the Presidency and the service to which the said lunatic belongs read the Principal Medical Officer of Her Majesty's Forces in India, the Surgeon-General with the Government of India, the Surgeon-General with the Government of Madras, the Surgeon-General with the Government of Bombay, or the Principal Medical Officer of the "Command" to which the said lunatic belongs; and for such Surgeon-General and the Surgeon-General read such Principal Medical Officer or Surgeon-General.
		In sections 3, 6 and 7, for the words local military regulations, wherever they occur, read military regulations.

Regulations of the Madras Code.

VII of 1808	Power to establish martial law.	In the title, in the first place in which the words occur in the preamble, in section 2 and in section 4, for Governor in Council read Governor General in Council.
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1894.] *Repealing and Amending (Army).*

SCHEDULE II—*contd.*

ENACTMENTS AMENDED—*contd.*

Number and year.	Title or subject.	Amendments.
1	2	3
<i>Regulations of the Madras Code—contd.</i>		
VIII of 1817	Sepoy Mālguzārs	In the title, <i>for</i> on the military establishment of the Presidency of Fort St. George <i>read</i>, in the Madras Command. In section 9, clause <i>first</i>, <i>for</i> on the military establishment under the Presidency of Fort St. George <i>read</i> in the Madras Command.

ACT NO. XV OF 1894.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 18th October, 1894.)

An Act to validate certain certificates granted to engineers of steam-ships.

Bom. IV of 1873.
VI of 1884.

WHEREAS the Steam-vessel Survey Amendment Act of 1873 was repealed by the Inland Steam-vessels Act, 1884, which came into force in the territories administered by the Governor of Bombay in Council on the first day of December, 1885;

And whereas between the said day and the seventh day of February, 1893, certain certificates styled "Indian Foreign Trade Certificates of Competency" were inadvertently granted in Bombay in pursuance of rules made under the said Steam-vessel Survey Amendment Act of 1873, and without regard to the provisions of the Indian Steam-ships Act, 1884;

And whereas it is expedient to validate the said certificates;

It is hereby enacted as follows :

1. (1) This Act may be called the Engineers' Certificates Validation Act, 1894; and

Title and commencement.

(2) It shall come into force at once.

2. The certificates described as "Indian Foreign Trade Certificates of Competency," which were granted under the authority of the Governor of Bombay in Council between the first day of December, 1885, and the seventh day of February, 1893 (both inclusive), to certify to the competency of the grantees thereof to act as engineers of steam-ships, shall be deemed to have been granted under the Indian Steam-ships Act, 1884, and shall be recognized as valid for voyages of those classes with reference whereto they were granted: Provided that nothing herein contained shall be deemed to affect such certificates in any other respect.

*Validation of "Indian Foreign Trade Certificates of Competency" granted in Bombay to engineers of steam-ships.

[Price one anna.]

ACT NO. IX OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 7th March, 1895.)

An Act to confer on Presidency Magistrates and District Magistrates certain powers and authorities in relation to the surrender of fugitive criminals.

13 & 24 Vict.,
c. 52.

WHEREAS by the Extradition Act, 1870, it is, among other things, enacted that the said Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession, but with the following among other modifications, namely :—

No warrant of a Secretary of State shall be required, and all powers vested in, or acts authorized or required to be done under the said Act by, the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the British possession alone ;

And whereas by the said Act it is also enacted that, if by any law or ordinance made before or after the passing of the said Act by the Legislature of any British possession provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or are suspected of being in such possession, Her Majesty may, by the Order in Council applying the said Act in the case of any foreign State, or by any subsequent order, either—

suspend the operation within any such British possession of the said Act or any part thereof, so far as it relates to such foreign State, and

[Price one anna and three pies.]

SO
[Signature]

Extradition (India). [ACT IX, 1895.]

- so long as such law or ordinance continues in force there, and no longer,
- or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of the said Act ;

And whereas the said Extradition Act, 1870, was amended by the Extradition Act, 1873, which enacted that that Act was to be construed as one with the said Act of 1870, and that the said two Acts might be cited together as the Extradition Acts, 1870 and 1873 ;

36 & 37 Vict.,
c. 60.

And whereas it is expedient to provide for the more convenient administration in British India of the said Extradition Acts, 1870 and 1873, by conferring on Presidency Magistrates and District Magistrates the like powers and authorities in relation to the surrender of fugitive criminals as are by the said Acts vested in Police Magistrates and Justices of the Peace in the United Kingdom ;

It is hereby enacted as follows :—

Title and
commence-
ment.

1. (1) This Act may be called the Extradition (India) Act, 1895 ; and

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint in this behalf :

Provided that no such date shall be appointed until after Her Majesty has been pleased by Order in Council to direct that this Act shall have effect in British India as if it were part of the Extradition Act, 1870, and such Order has been published in the Gazette of India.

33 & 34 Vict.,
s. 52.

Powers of
Police Magis-
trates and
Justices of
Peace under
Imperial
Acts confer-
red on Pre-
sidency and
District
Magistrates.

2. All powers vested in, and acts authorized or required to be done by, a Police Magistrate or any Justice of the Peace in relation to the surrender of fugitive criminals in the United Kingdom under the Extradition Acts, 1870 and 1873, are hereby vested in, and may in British India be exercised and done by, any Presidency Magistrate or District Magistrate in relation to the surrender of fugitive criminals under the said Acts.

Registered No. 253

10th July 1895.

ACT No. X OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 7th March, 1895.)

An Act to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction.

VI of 1882. **WHEREAS** it is expedient to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Railway Companies Act, 1895. Title, extent and commencement.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

IX of 1890. (1) "railway" means a railway as defined in section 3, clause (4), of the Indian Railways Act, 1890:

(2) "the railway" means the railway in relation to the construction of which interest out of capital is permitted to be paid as hereinafter provided: and

VI of 1882. (3) "Railway Company" means a Company registered under the Indian Companies Act, 1882, and formed for the purpose of making and working, or making or working, a railway in India, whether alone or in conjunction with other purposes.

3. A Railway Company may pay interest on its paid-up share capital out of capital, for the period, Payment of interest out of capital. and

[Price one anna and six pies.]

and subject to the conditions and restrictions, in this section mentioned, and may charge the same to capital as part of the cost of construction of the railway:—

- (1) Such interest shall be paid only for such period as shall be determined by the Governor General in Council; and such period shall in no case extend beyond the close of the half-year next after the half-year during which the railway shall be actually completed and opened for traffic.
- (2) No such payment shall be made unless the same is authorised by the Company's memorandum of association or by a special resolution of the Company.
- (3) No such payment, whether authorised by the Company's memorandum of association or by special resolution as aforesaid, shall be made without the previous sanction of the Governor General in Council.
- (4) The amount so paid out of capital by way of interest, in respect of any period, shall in no case exceed a sum which shall, together with the net earnings of the railway during such period, make up the rate of four per cent. per annum.
- (5) No such payment of interest shall be made until such Railway Company has satisfied the Governor General in Council that two-thirds at least of its share capital, in respect whereof interest is to be so paid, has been actually issued and accepted, and is held by shareholders who, or whose representatives, are legally liable for the same.
- (6) No such interest shall accrue in favour of any shareholder for any time during which any call on any of his shares is in arrear.
- (7) The payment of such interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.

4. A railway in course of construction and intended to be made or worked by a Railway Company in addition to or by way of extension of any railway owned or worked by such Company shall be deemed to be the railway of such Company for the purposes of this Act, and all the provisions of the last preceding section shall apply to such railway and to the share capital issued for the purpose of its construction.

Provisions of section 3 applicable to additional share capital for extensions.

5. When a Railway Company has power to pay interest under this Act, notice to that effect shall be given in every prospectus, advertisement or other document inviting subscriptions for shares therein, and in every certificate of such shares.

Notice in prospectus and other documents.

6. When any interest has been paid by a Railway Company under this Act, the annual or other accounts of such Company shall show the amount on which, and the rate at which, interest has been so paid.

Accounts.

7. If by any memorandum of association, articles of association or other document any power of borrowing money is conferred on a Railway Company, or on its Directors, with or without the sanction of any meeting, and if such power of borrowing is limited to an amount bearing any proportion to the capital of such Company, the amount of capital applied or to be applied in payment of interest under this Act shall, for the purpose of ascertaining the extent of such power of borrowing, be deducted from the capital of such Company.

Construction of borrowing powers.

Registered No. 254
10th July 1895
✓

ACT NO. XII OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL,
(Received the assent of the Governor General on the 21st March,
1895.)

An Act to give power to Companies to make certain alterations in the Instruments under which they are constituted, and to amend the Indian Companies Act, 1882.

VI of 1882. WHEREAS it is expedient to give to companies power to alter the provisions of the instruments under which they are constituted in certain cases; and whereas it is also expedient to amend section 65 of the Indian Companies Act, 1882; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Companies (Memorandum of Association) Act, 1895; and

Short title and commencement.

(2) It shall come into force at once.

VI of 1882. 2. Sections 3 to 10 (both inclusive) shall be read with and taken as part of the Indian Companies Act, 1882.

Sections 3 to 10 to be read with Act VI of 1882.

3. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) the expression “deed of settlement” includes any contract of copartnery or other instrument constituting or regulating a company and not being an Act of Parliament, a Royal Charter or Letters Patent; and

I of 1868. (2) the expression “High Court” means for the Town of Rangoon the Recorder and elsewhere the High Court as defined in the General Clauses Act, 1868.

4. Subject

[Price two annas.]

Companies (Memorandum of Association). [ACT XII

Power for company to alter objects or form of constitution subject to confirmation by High Court.

4. Subject to the provisions of this Act, a company registered under the Indian Companies Act, 1882, VI of 1882. may, by special resolution, alter the provisions of its memorandum of association or deed of settlement with respect to the objects of the company, so far as may be required for any of the purposes hereinafter specified, or alter the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, either with or without any such alteration as aforesaid with respect to the objects of the company; but in no case shall any such alteration take effect until confirmed on petition by the High Court.

Particulars as to which Court must be satisfied before confirmation.

5. Before confirming any such alteration the High Court must be satisfied—

(a) that sufficient notice has been given to every holder of debentures or debenture stock of the company, and every person or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and

(b) that, with respect to every creditor who in the opinion of the Court is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court :

Provided that the Court may, in the case of any person or class of persons, for special reasons, dispense with the notice required by this section.

Power of Court when confirming to impose terms and make order as to costs.

6. An order confirming any such alteration may be made on such terms and subject to such conditions as to the Court may seem fit, and the Court may make such orders as to costs as it may deem proper.

7. The High Court shall, in exercising its discretion under this Act, have regard to the rights and interests Discretion conferred

interests of the members of the company, or of any class of those members, as well as to the rights and interests of the creditors, and may, if it shall think fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members; and the Court may give such directions and make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect:

Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

8. The High Court may confirm, either wholly or in part, any such alteration as aforesaid with respect to the objects of the company if it appears that the alteration is required in order to enable the company—

Ground on which Court may confirm a proposed alteration.

- (a) to change the place of the registered office of the company from one part of British India to another; or
- (b) to carry on its business more economically or more efficiently; or
- (c) to attain its main purpose by new or improved means; or
- (d) to enlarge or change the local area of its operations; or
- (e) to carry on some business or businesses which under existing circumstances may conveniently or advantageously be combined with the business of the company; or
- (f) to restrict or abandon any of the objects specified in the memorandum of association or deed of settlement.

9. (1) Where a company has altered the provisions of its memorandum of association or deed of settlement with respect to the place of its registered

Registration of order together with memorandum

office

be altered or substituted memorandum and articles, and consequences thereof.

office or to the objects of the company, or has altered the form of its constitution by substituting a memorandum and articles of association for a deed of settlement, and such alteration has been confirmed by the Court, a certified copy of the order confirming such alteration, together with a printed copy of the memorandum of association or deed of settlement so altered, or together with a printed copy of the substituted memorandum and articles of association (as the case may be), shall be delivered by the company to the Registrar of Joint Stock Companies within three months from the date of the order, and the Registrar shall register the same, and shall certify under his hand the registration thereof, and his certificate shall be conclusive evidence that all the requisitions of this Act with respect to such alteration and the confirmation thereof have been complied with.

(2) When any such alteration as aforesaid involves a transfer of the registered office to a part of British India other than that in which the office is at which the company is registered, a certified copy of the order confirming such change shall be delivered by the company to the Registrar of Joint Stock Companies in each of such parts, and each of such Registrars shall register the same, and shall certify under his hand the registration thereof, and the Registrar for the part from which such office is transferred shall send to the Registrar for the other part all documents relating to the company registered in his office.

(3) From the date of such registration (but subject to the provisions of this Act) the memorandum or deed of settlement so altered shall be the memorandum of association or deed of settlement of the company, or, as the case may be, such substituted memorandum and articles of association shall apply to the company in the same manner as if the company were a company registered under Part I of the Indian Companies Act, 1882, with such memorandum and articles of association, and the company's deed of settlement shall cease to apply to the company.

VI of 1882.

(4) For

1895.] *Companies (Memorandum of Association).*

(4) For every registration under this section there shall be payable to the Registrar of Joint Stock Companies a fee of five rupees.

10. No such alteration as aforesaid shall have any operation until registration thereof has been duly effected under the last foregoing section, and, if such registration shall not have been effected within three months next after the date of the order of the Court confirming the alteration, such alteration and order and all proceedings connected therewith shall at the expiration of such period of three months become and be absolutely null and void :

Effect of failure to register within three months.

Provided that the Court may, on sufficient cause shewn, revive the order on application made within a further period of one month.

VI of 1882. 11. In section 65 of the Indian Companies Act, 1882, for the words "in such language or languages" the second time they occur the words "in the English language" shall be substituted.

Amendment of section 65 of Act VI of 1882.

ACT No. XV OF 1895.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 10th October, 1895.)

An Act to explain the Transfer of Property Act, 1882, so far as relates to grants from the Crown, and to remove certain doubts as to the powers of the Crown in relation to such grants.

IV of 1882.

WHEREAS doubts have arisen as to the extent and operation of the Transfer of Property Act, 1882, and as to the power of the Crown to impose limitations and restrictions upon grants and other transfers of land made by it or under its authority, and it is expedient to remove such doubts; It is hereby enacted as follows:—

1. (1) This Act may be called the Crown Grants Act, 1895.

Title, extent and commencement.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

IV of 1882.

2. Nothing in the Transfer of Property Act, 1882, contained shall apply or be deemed ever to have applied to any grant or other transfer of land or of any interest therein heretofore made or hereafter to be made by or on behalf of Her Majesty the Queen-Empress, her heirs or successors, or by or on behalf of the Secretary of State for India in Council to, or in favour of, any person whomsoever; but every such grant and transfer shall be construed and take effect as if the said Act had not been passed.

Transfer of Property Act, 1882; not to apply to Crown grants.

3. All provisions, restrictions, conditions and limitations over contained in any such grant or transfer as aforesaid shall be valid and take effect according to their tenor, any rule of law, statute or enactment of the Legislature to the contrary notwithstanding.

Crown grants to take effect according to their tenor.

[Price one anna.]

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ACT NO. II OF 1900.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 2nd February, 1900.)

An Act to amend the Transfer of Property Act, 1882.

V of 1882.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882; It is hereby enacted as follows:—

1. (1) This Act may be called the Transfer of Property Act, 1900; and

Short title
and com-
mencement.

(2) It shall come into force at once.

IV of 1882.

2. In section 3 of the Transfer of Property Act, 1882, after the definition of "attached to the earth" the following shall be inserted, namely:—

Addition to
section 3,
Act IV,
1882.

" 'Actionable claim' means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent."

3. In section 6 of the same Act—

(i) in clause (e) the words "for compensation for a fraud or for harm illegally caused" shall be omitted; and

Amendment
of section 6,
Act IV,
1882.

(ii) in clause (h) the words "for an illegal purpose" shall be omitted and instead thereof the words "for an unlawful object or consideration within the meaning of section 23

of

[Price one anna and three pice.]

of the Indian Contract Act, 1872," shall be inserted. IX of 1872.

Substitution of new Chapter for Chapter VIII, Act IV, 1882.

4. For Chapter VIII of the same Act, the following Chapter shall be substituted, namely :—

"CHAPTER VIII.

- "OF TRANSFERS OF ACTIONABLE CLAIMS.

Transfer of actionable claim.

"130. (1) The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not :

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or enforce such debt or other actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

Exception.—Nothing in this section applies to the transfer of a marine or fire policy of insurance.

Illustrations.

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, not having received notice of the transfer, as prescribed in section 131, pays B. The payment is valid, and C cannot sue A for the debt.

(ii) A

(ii) A effects a policy on his own life with an Insurance Company and assigns it to a Bank for securing the payment of an existing or future debt. If A dies, the Bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor, subject to the proviso in sub-section (1) of section 130 and to the provisions of section 132.

"131. Every notice of transfer of an actionable claim shall be in writing, signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee.

Notice to be in writing, signed.

"132. The transferee of an actionable claim shall take it subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

Liability of transferee of actionable claim.

Illustrations.

(i) A transfers to C a debt due to him by B, A being then indebted to B. C sues B for the debt due by B to A. In such suit B is entitled to set off the debt due by A to him, although C was unaware of it at the date of such transfer.

(ii) A executed a bond in favour of B under circumstances entitling the former to have it delivered up and cancelled. B assigns the bond to C for value and without notice of such circumstances. C cannot enforce the bond against A.

"133. Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

Warranty of solvency of debtor.

"134. Where a debt is transferred for the purpose of securing an existing or future debt, the debt so transferred, if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery: secondly, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor or other person entitled to receive the same.

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Assignment
of rights
under marine
or fire policy
of insurance.

“135. Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Incapacity of
officers con-
nected with
Courts of
Justice.

“136. No Judge, legal practitioner, or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive, any share of, or interest in, any actionable claim, and no Court of Justice shall enforce, at his instance or at the instance of any person claiming by or through him, any actionable claim so dealt with by him as aforesaid.

Saving of
negotiable
Instruments,
etc.

“137. Nothing in the foregoing sections of this Chapter applies to stocks, shares or debentures or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods.

Explanation.—The expression ‘mercantile document of title to goods’ includes a bill of lading, dock-warrant, warehouse-keeper’s certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented.”

Repeal.

5. So much of the Policies of Insurance (Marine and Fire) Assignment Act, 1866, as is unrepealed, V of 1866. and so much of the Indian Short Titles Act, 1897, as XIV of 1897. relates thereto, are hereby repealed.

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GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

THE TRANSFER OF PROPERTY ACT, 1882,

AS MODIFIED UP TO THE 1ST MARCH, 1900.

CALCUTTA :
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1900.

Price Fifteen Annas.

CALCUTTA :
GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE,
8, HASTINGS STREET.

STATEMENT OF REPEALS AND AMENDMENTS.

S. 1	AMENDED	.	.	.	.	.	.	III OF 1885, s. 1.
S. 3	"	.	.	.	.	.	.	II OF 1900, s. 2.
S. 4	"	.	.	.	.	.	.	III OF 1885, s. 3.
S. 6	"	.	.	.	.	.	.	III OF 1885, s. 4.
S. 6	"	.	.	.	.	.	.	II OF 1900, s. 3.
S. 69	"	.	.	.	.	.	.	III OF 1885, s. 5.
Ch. VIII	SUBSTITUTED	.	.	.	.	.	.	II OF 1900, s. 4.

The following changes have been made in reprinting the Act :—

- (1) amendments have been inserted in their proper places, with explanatory foot-notes :
- (2) references to repealed Acts have been altered as directed by the enactment which effects the repeal, explanatory foot-notes being inserted :
- (3) some further foot-notes have been added for convenience of reference :
- (4) the number and year of Acts referred to in the text have been noted in the inner margin :
- (5) section-numbers occurring in the text have been printed in figures instead of in words :
- (6) the headings to the pages have been amplified.

THE TRANSFER OF PROPERTY ACT, 1882.

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THE SCHEDULE.

1882.]

ACT No. IV OF 1882.¹

[17th February, 1882.]

An Act to amend the law relating to the Transfer of Property by Act of Parties.

[As modified up to the 1st March, 1900.]

WHEREAS it is expedient to define and amend certain parts of the law relating to the transfer of property by act of parties; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Transfer of Property Act, 1882.

Short title.

It shall come into force on the first day of July, 1882:

Commencement.

It extends in the first instance to the whole of British India² except the territories respectively administered by the Governor of Bombay in Council, the Lieutenant-Governor of the Punjab and the Chief Commissioner of British Burma.³

Extent.

But

¹ For Statement of Objects and Reasons, see Gazette of India, 1877, Pt. V, p. 171; for the Preliminary Report of the Select Committee, see *ibid.*, 1878, Pt. V, p. 48; for the further Report of the Select Committee, see *ibid.*, 1879, Pt. V, p. 106; for the third Report of the Select Committee, see *ibid.*, 1881, Pt. V, p. 395; for Proceedings in Council, see *ibid.*, 1877, Supplement, p. 1568; *ibid.*, 1877, Supplement, p. 1882, Supplement, p. 96; *ibid.*, 1882, Supplement, p. 169.

² Act IV of 1882 has ceased to be in force in the Naga Hills district, including the Mokocheang subdivision, the Dibrugarh Frontier Tract, the North Cachar Hills, the Garo Hills, the Khasia and Jaintia Hills, and the Mikir Hills Tract—see Assam Rules Manual, Ed. 1893, pp. 408, 409, 1884, Pt. II, pp. 212 and 705, respectively.

³ This reference to British Burma should now be read as referring to Lower Burma—see the Upper Burma Laws Act, 1886 (XX of 1886); s. 4, and now the Burma Laws Act, 1898 (XIII of 1898), by which Act XX of 1886 has been repealed. The Chief Commissioner is now Lieutenant-Governor of Burma—see Proclamation, dated 9th April, 1897, in Gazette of India, 1897, Pt. I, p. 261.

But any of the said Local Governments may, from time to time, by notification in the local official Gazette, extend¹ this Act to the whole or any specified part of the territories under its administration.

²[And any Local Government may, with the previous sanction of the Governor General in Council from time to time, by notification in the local official Gazette, exempt,³ either retrospectively or prospectively, any part of the territories administered by such Local Government from all or any of the following provisions, namely:—

Sections 54, paragraphs 2 and 3, 59, 107 and 123.]

⁴[Notwithstanding anything in the foregoing part of this section, sections 54, paragraphs 2 and 3, 59, 107 and 123 shall not extend or be extended to any district or tract of country for the time being excluded from the operation of the Indian Registration Act, 1877,⁵ under the power conferred by the first section of that Act or otherwise.] III of 1877.

Repeal of
Acts.

2. In the territories to which this Act extends for the time being the enactments specified in the schedule hereto annexed shall be repealed to the extent therein mentioned. But nothing herein contained shall be deemed to affect—

(a) the provisions of any enactment not hereby expressly repealed

(b) any

Saving of
certain en-
actments,
incidents,
rights, liabil-
ities, etc.

¹ Act IV of 1882 has been extended (from 1st January, 1893,) to—

(i) the whole of the territories, other than the Scheduled Districts, under the administration of the Government of Bombay—see Bombay Government Gazette, 1892, Pt. I, p. 1071; and

(ii) the area included within the local limits of the ordinary civil jurisdiction of the Recorder of Rangoon—see Burma Gazette, 1892, Pt. I, p. 373.

The Act has been repealed as to Crown Grants, by the Crown Grants Act, 1895 (XV of 1895).

² This clause was substituted for the original clause by the Transfer of Property Act (1882) Amendment Act, 1885, III of 1885, s. 1, printed, General Acts, Ed. 1898, Vol. V.

³ No such exemption has yet been made.

⁴ This clause was added by Act III of 1885, s. 2, and is to be deemed to have been added from the date on which Act IV of 1882 came into force.

Section 54, paragraphs two and three, and ss. 59, 107 and 123 extend to every cantonment in British India—see the Cantonments Act, 1889 (XIII of 1889), s. 32 (1). Printed, General Acts, Ed. 1898.

⁵ Printed, General Acts, Vol. III, p. 41.

(Chapter I.—Preliminary.—Section 3.)

- (b) any terms or incidents of any contract or constitution of property which are consistent with the provisions of this Act, and are allowed by the law for the time being in force :
- (c) any right or liability arising out of a legal relation constituted before this Act comes into force, or any relief in respect of any such right or liability : or
- (d) save as provided by section 57 and Chapter IV of this Act, any transfer by operation of law or by, or in execution of, a decree or order of a Court of competent jurisdiction:

and nothing in the second chapter of this Act shall be deemed to affect any rule of Hindu, Muhammadan or Buddhist law.

3. In this Act, unless there is something repugnant in the subject or context,—

Interpretation-clause.

“immoveable property” does not include standing timber, growing crops or grass :

“instrument” means a non-testamentary instrument :

“registered” means registered in British India under the law¹ for the time being in force regulating the registration of documents :

“attached to the earth” means—

- (a) rooted in the earth, as in the case of trees and shrubs ;
- (b) imbedded in the earth, as in the case of walls or buildings ; or
- (c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached :

Actionable

¹ See the Indian Registration Act, 1877 (III of 1877). Printed, General Acts, Vol. III, p. 41.

Transfer of Property. [ACT IV

(Chapter I.—Preliminary.—Section 4. Chapter II.
—Of Transfers of Property by Act of Parties.—
Section 5.)

¹["Actionable claim" means a claim to any debt, other than a debt secured by mortgage of immoveable property or by hypothecation or pledge of moveable property, or to any beneficial interest in moveable property not in the possession, either actual or constructive, of the claimant, which the Civil Courts recognize as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent],

and a person is said to have "notice" of a fact when he actually knows that fact, or when, but for wilful abstention from an enquiry or search which he ought to have made, or gross negligence, he would have known it, or when information of the fact is given to or obtained by his agent under the circumstances mentioned in the Indian Contract Act, 1872,² IX of 1872. section 229.

Enactments relating to contracts to be taken as part of Contract Act.

4. The chapters and sections of this Act which relate to contracts shall be taken as part of the Indian Contract Act, 1872.²

IX of 1872.

³[And sections 54, paragraphs 2 and 3, 59, 107 and 123 shall be read as supplemental to the Indian Registration Act, 1877].

III of 1877.

CHAPTER II.⁴

OF TRANSFERS OF PROPERTY BY ACT OF PARTIES.

(A)—*Transfer of Property, whether moveable or immoveable.*

"Transfer of property" defined.

5. In the following sections "transfer of property" means

¹ This paragraph was inserted by s. 2 of the Transfer of Property Act, 1900 (II of 1900).

² Printed, General Acts, Vol. II; see also now the revised edition as modified up to 1st September, 1899, published by the Legislative Department.

³ This portion was added by the Transfer of Property Act (1882) Amendment Act, 1885 (III of 1885), s. 3, printed, General Acts, Ed. 1898, Vol. V, p. 3.

⁴ Nothing in Chapter II is to be deemed to affect any rule of Hindu, Muhammadan or Buddhist law—see s. 2, *supra*.

(Chapter II.—Of Transfers of Property by Act of Parties.—Section 6.)

means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself and one or more other living persons; and “to transfer property” is to perform such act.

6. Property of any kind may be transferred, except as otherwise provided by this Act or by any other law for the time being in force : What may be transferred.

(a) The chance of an heir-apparent succeeding to an estate, the chance of a relation obtaining a legacy on the death of a kinsman, or any other mere possibility of a like nature, cannot be transferred.

(b) A mere right of re-entry for breach of a condition subsequent cannot be transferred to any one except the owner of the property affected thereby.

(c) An easement cannot be transferred apart from the dominant heritage.

(d) An interest in property restricted in its enjoyment to the owner personally cannot be transferred by him.

(e) A mere right to sue * * * * *¹ cannot be transferred.

(f) A public office cannot be transferred, nor can the salary of a public officer, whether before or after it has become payable.

(g) Stipends allowed to military and civil pensioners of Government and political pensions cannot be transferred.

(h) No transfer can be made (1) in so far as it is opposed to the nature of the interest affected thereby, or (2)² [for an unlawful object or consideration within the meaning of section 23 of the Indian Contract Act,

1872,

¹ The words “for compensation for a fraud or for harm illegally caused” were repealed by s. 3 (i) of the Transfer of Property Act, 1900 (II of 1900).

² These words were substituted for the words “for an illegal purpose,” by s. 3 (ii) of Act II of 1900.

Transfer of Property. [ACT IV
(Chapter II.—Of Transfers of Property by Act of
Parties.—Sections 7-8.)

1872,] or (3) to a person legally disqualified to be transferee.

¹ (i) Nothing in this section shall be deemed to authorize a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue or the lessee of an estate under the management of a Court of Wards to assign his interest as such tenant, farmer or lessee.

Persons com-
petent to
transfer.

7. Every person competent to contract and entitled to transferable property, or authorized to dispose of transferable property not his own, is competent to transfer such property either wholly or in part, and either absolutely or conditionally, in the circumstances, to the extent and in the manner allowed and prescribed by any law for the time being in force.

Operation of
transfer.

8. Unless a different intention is expressed or necessarily implied, a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof.

Such incidents include, where the property is land, the easements annexed thereto, the rents and profits thereof accruing after the transfer, and all things attached to the earth;

and, where the property is machinery attached to the earth, the moveable parts thereof;

and, where the property is a house, the easements annexed thereto, the rent thereof accruing after the transfer, and the locks, keys, bars, doors, windows, and all other things provided for permanent use therewith;

and, where the property is a debt or other actionable claim, the securities therefor (except where they are also for other debts or claims not transferred to

the

¹ Cl. (i) was added by the Transfer of Property Act (1882) Amendment Act, 1885 (III of 1885), s. 4, printed, General Acts, Ed. 1898, Vol. V, p. 3.

(Chapter II.—Of Transfers of Property by Act of Parties.—Sections 9-12.)

the transferee), but not arrears of interest accrued before the transfer ;

and, where the property is money or other property yielding income, the interest or income thereof accruing after the transfer takes effect.

9. A transfer of property may be made without writing in every case in which a writing is not expressly required by law. Oral transfer.

10. Where property is transferred subject to a condition or limitation absolutely restraining the transferee or any person claiming under him from parting with or disposing of his interest in the property, the condition or limitation is void, except in the case of a lease where the condition is for the benefit of the lessor or those claiming under him: Provided that property may be transferred to or for the benefit of a woman (not being a Hindu, Muhammadan or Buddhist), so that she shall not have power during her marriage to transfer or charge the same or her beneficial interest therein. Condition restraining alienation.

11. Where, on a transfer of property, an interest therein is created absolutely in favour of any person, but the terms of the transfer direct that such interest shall be applied or enjoyed by him in a particular manner, he shall be entitled to receive and dispose of such interest as if there were no such direction. Restriction repugnant to interest created.

Nothing in this section shall be deemed to affect the right to restrain, for the beneficial enjoyment of one piece of immoveable property, the enjoyment of another piece of such property, or to compel the enjoyment thereof in a particular manner.

12. Where property is transferred subject to a condition or limitation making any interest therein, reserved or given to or for the benefit of any person, to cease on his becoming insolvent or endeavouring to transfer or dispose of the same, such condition or limitation is void. Condition making interest determinable on insolvency or attempted alienation.

Nothing •

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(Chapter II.—Of Transfers of Property by Act of
Parties.—Sections 13-17.)

Nothing in this section applies to a condition in a lease for the benefit of the lessor or those claiming under him.

Transfer for
benefit of
unborn
person.

13. Where, on a transfer of property, an interest therein is created for the benefit of a person not in existence at the date of the transfer, subject to a prior interest created by the same transfer, the interest created for the benefit of such person shall not take effect, unless it extends to the whole of the remaining interest of the transferor in the property.

Illustration.

A transfers property of which he is the owner to B in trust for A and his intended wife successively for their lives, and after the death of the survivor for the eldest son of the intended marriage for life, and after his death for A's second son. The interest so created for the benefit of the eldest son does not take effect, because it does not extend to the whole of A's remaining interest in the property.

Rule against
perpetuity.

14. No transfer of property can operate to create an interest which is to take effect after the life-time of one or more persons living at the date of such transfer, and the minority of some person who shall be in existence at the expiration of that period, and to whom, if he attains full age, the interest created is to belong.

Transfer to
class some of
whom come
under sec-
tions 13 and
14.

15. If, on a transfer of property, an interest therein is created for the benefit of a class of persons with regard to some of whom such interest fails by reason of any of the rules contained in sections 13 and 14, such interest fails as regards the whole class.

Transfer to
take effect
on failure of
prior trans-
fer.

16. Where an interest fails by reason of any of the rules contained in sections 13, 14 and 15, any interest created in the same transaction and intended to take effect after or upon failure of such prior interest also fails.

Transfer in
perpetuity
for benefit of
public.

17. The restrictions in sections 14, 15 and 16 shall not apply to property transferred for the benefit of the public in the advancement of religion, knowledge, commerce,

(Chapter II.—Of Transfers of Property by Act of Parties.—Sections 18-20.)

commerce, health, safety or any other object beneficial to mankind.

18. Where the terms of a transfer of property direct that the income arising from the property shall be accumulated, such direction shall be void, and the property shall be disposed of as if no accumulation had been directed.

Direction for accumulation.

Exception.—Where the property is immoveable or where accumulation is directed to be made from the date of the transfer, the direction shall be valid in respect only of the income arising from the property within one year next following such date; and at the end of the year such property and income shall be disposed of respectively as if the period during which the accumulation has been directed to be made had elapsed.

19. Where, on a transfer of property, an interest therein is created in favour of a person without specifying the time when it is to take effect, or in terms specifying that it is to take effect forthwith or on the happening of an event which must happen, such interest is vested, unless a contrary intention appears from the terms of the transfer.

Vested interest.

A vested interest is not defeated by the death of the transferee before he obtains possession.

Explanation.—An intention that an interest shall not be vested is not to be inferred merely from a provision whereby the enjoyment thereof is postponed, or whereby a prior interest in the same property is given or reserved to some other person, or whereby income arising from the property is directed to be accumulated until the time of enjoyment arrives, or from a provision that if a particular event shall happen the interest shall pass to another person.

20. Where, on a transfer of property, an interest therein is created for the benefit of a person not then living, he acquires upon his birth, unless a contrary intention

When unborn person acquires vested interest on transfer for his benefit.

(Chapter II.—Of Transfers of Property by Act of Parties.—Sections 21-24.)

intention appear from the terms of the transfer, a vested interest, although he may not be entitled to the enjoyment thereof immediately on his birth.

Contingent interest.

21. Where, on a transfer of property, an interest therein is created in favour of a person to take effect only on the happening of a specified uncertain event, or if a specified uncertain event shall not happen, such person thereby acquires a contingent interest in the property. Such interest becomes a vested interest, in the former case, on the happening of the event, in the latter, when the happening of the event becomes impossible.

Exception.—Where, under a transfer of property, a person becomes entitled to an interest therein upon attaining a particular age, and the transferor also gives to him absolutely the income to arise from such interest before he reaches that age, or directs the income or so much thereof as may be necessary to be applied for his benefit, such interest is not contingent.

Transfer to members of a class who attain a particular age.

22. Where, on a transfer of property, an interest therein is created in favour of such members only of a class as shall attain a particular age, such interest does not vest in any member of the class who has not attained that age.

Transfer contingent on happening of specified uncertain event.

23. Where, on a transfer of property, an interest therein is to accrue to a specified person if a specified uncertain event shall happen, and no time is mentioned for the occurrence of that event, the interest fails unless such event happens before, or at the same time as, the intermediate or precedent interest ceases to exist.

Transfer to such of certain persons as survive at some period not specified.

24. Where, on a transfer of property, an interest therein is to accrue to such of certain persons as shall be surviving at some period, but the exact period is not specified, the interest shall go to such of them as shall be alive when the intermediate or precedent interest

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Transfer of Property.

(Chapter II.—Of Transfers of Property by Act of Parties.—Sections 25-26.)

interest ceases to exist, unless a contrary intention appears from the terms of the transfer.

Illustration.

A transfers property to B for life, and after his death to C and D, equally to be divided between them, or to the survivor of them. C dies during the life of B. D survives B. At B's death the property passes to D.

25. An interest created on a transfer of property and dependent upon a condition fails if the fulfilment of the condition is impossible, or is forbidden by law, or is of such a nature that, if permitted, it would defeat the provisions of any law, or is fraudulent, or involves or implies injury to the person or property of another, or the Court regards it as immoral or opposed to public policy. Conditional transfer.

Illustrations.

(a) A lets a farm to B on condition that he shall walk a hundred miles in an hour. The lease is void.

(b) A gives Rs. 500 to B on condition that he shall marry A's daughter C. At the date of the transfer C was dead. The transfer is void.

(c) A transfers Rs. 500 to B on condition that she shall murder C. The transfer is void.

(d) A transfers Rs. 500 to his niece C if she will desert her husband. The transfer is void.

26. Where the terms of a transfer of property impose a condition to be fulfilled before a person can take an interest in the property, the condition shall be deemed to have been fulfilled if it has been substantially complied with. Fulfilment of condition precedent.

Illustrations.

(a) A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D and E. E dies. B marries with the consent of C and D. B is deemed to have fulfilled the condition.

(b) A transfers Rs. 5,000 to B on condition that he shall marry with the consent of C, D and E. B marries without the

consent .

consent of C, D and E, but obtains their consent after the marriage. B has not fulfilled the condition.

Conditional transfer to one person coupled with transfer to another on failure of prior disposition.

27. Where, on a transfer of property, an interest therein is created in favour of one person, and by the same transaction an ulterior disposition of the same interest is made in favour of another, if the prior disposition under the transfer shall fail, the ulterior disposition shall take effect upon the failure of the prior disposition, although the failure may not have occurred in the manner contemplated by the transferor.

But, where the intention of the parties to the transaction is that the ulterior disposition shall take effect only in the event of the prior disposition failing in a particular manner, the ulterior disposition shall not take effect unless the prior disposition fails in that manner.

Illustrations.

(a) A transfers Rs. 500 to B on condition that he shall execute a certain lease within three months after A's death, and, if he should neglect to do so, to C. B dies in A's life-time. The disposition in favour of C takes effect.

(b) A transfers property to his wife; but, in case she should die in his life-time, transfers to B that which he had transferred to her. A and his wife perish together, under circumstances which make it impossible to prove that she died before him. The disposition in favour of B does not take effect.

Ulterior transfer conditional on happening or not happening of specified event.

28. On a transfer of property an interest therein may be created to accrue to any person with the condition superadded that in case a specified uncertain event shall happen such interest shall pass to another person, or that in case a specified uncertain event shall not happen such interest shall pass to another person. In each case the dispositions are subject to the rules contained in sections 10, 12, 21, 22, 23, 24, 25 and 27.

Fulfilment of condition subsequent.

29. An ulterior disposition of the kind contemplated by the last preceding section cannot take effect unless the condition is strictly fulfilled.

Illustration.

*(Chapter II.—Of Transfers of Property by Act of Parties—Sections 30-33.)**Illustration.*

A transfers Rs. 500 to B, to be paid to him on his attaining his majority or marrying, with a proviso that, if B dies a minor or marries without C's consent, the Rs. 500 shall go to D. B marries when only 17 years of age, without C's consent. The transfer to D takes effect.

30. If the ulterior disposition is not valid, the prior disposition is not affected by it.

Illustration.

A transfers a farm to B for her life, and, if she do not desert her husband, to C. B is entitled to the farm during her life as if no condition had been inserted.

Prior disposition not affected by invalidity of ulterior disposition.

31. Subject to the provisions of section 12, on a transfer of property an interest therein may be created with the condition superadded that it shall cease to exist in case a specified uncertain event shall happen, or in case a specified uncertain event shall not happen.

Condition that transfer shall cease to have effect in case specified uncertain event happens or does not happen.

Illustrations.

(a) A transfers a farm to B for his life, with a proviso that, in case B cuts down a certain wood, the transfer shall cease to have any effect. B cuts down the wood. He loses his life-interest in the farm.

(b) A transfers a farm to B, provided that, if B shall not go to England within three years after the date of the transfer, his interest in the farm shall cease. B does not go to England within the term prescribed. His interest in the farm ceases.

32. In order that a condition that an interest shall cease to exist may be valid, it is necessary that the event to which it relates be one which could legally constitute the condition of the creation of an interest.

Such condition must not be invalid.

33. Where, on a transfer of property, an interest therein is created subject to a condition that the person taking it shall perform a certain act, but no time is specified for the performance of the act, the condition is broken when he renders impossible, permanently

Transfer conditional on performance of act, no time being specified for performance.

permanently or for an indefinite period, the performance of the act.

Transfer
conditional
on perform-
ance of act,
time being
specified.

34. Where an act is to be performed by a person either as a condition to be fulfilled before an interest created on a transfer of property is enjoyed by him, or as a condition on the non-fulfilment of which the interest is to pass from him to another person, and a time is specified for the performance of the act, if such performance within the specified time is prevented by the fraud of a person who would be directly benefited by non-fulfilment of the condition, such further time shall as against him be allowed for performing the act as shall be requisite to make up for the delay caused by such fraud. But if no time is specified for the performance of the act, then, if its performance is by the fraud of a person interested in the non-fulfilment of the condition rendered impossible or indefinitely postponed, the condition shall as against him be deemed to have been fulfilled.

Election.

Election
when neces-
sary.

35. Where a person professes to transfer property which he has no right to transfer, and as part of the same transaction confers any benefit on the owner of the property, such owner must elect either to confirm such transfer or to dissent from it; and in the latter case he shall relinquish the benefit so conferred, and the benefit so relinquished shall revert to the transferor or his representative as if it had not been disposed of,

subject nevertheless,

where the transfer is gratuitous, and the transferor has, before the election, died or otherwise become incapable of making a fresh transfer,

and in all cases where the transfer is for consideration,

to

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Transfer of Property.

(Chapter II.—Of Transfers of Property by Act of Parties.—Section 35.)

to the charge of making good to the disappointed transferee the amount or value of the property attempted to be transferred to him.

Illustrations.

The farm of Sultanpur is the property of C and worth Rs. 800. A by an instrument of gift professes to transfer it to B, giving by the same instrument Rs. 1,000 to C. C elects to retain the farm. He forfeits the gift of Rs. 1,000.

In the same case, A dies before the election. His representative must out of the Rs. 1,000 pay Rs. 800 to B.

The rule in the first paragraph of this section applies whether the transferor does or does not believe that which he professes to transfer to be his own.

A person taking no benefit directly under a transaction, but deriving a benefit under it indirectly, need not elect.

A person who in his one capacity takes a benefit under the transaction may in another dissent therefrom.

Exception to the last preceding four rules.—

Where a particular benefit is expressed to be conferred on the owner of the property which the transferor professes to transfer, and such benefit is expressed to be in lieu of that property, if such owner claim the property, he must relinquish the particular benefit, but he is not bound to relinquish any other benefit conferred upon him by the same transaction.

Acceptance of the benefit by the person on whom it is conferred constitutes an election by him to confirm the transfer, if he is aware of his duty to elect and of those circumstances which would influence the judgment of a reasonable man in making an election, or if he waives enquiry into the circumstances.

Such knowledge or waiver shall, in the absence of evidence to the contrary, be presumed, if the person on whom the benefit has been conferred has enjoyed

it .

Transfer of Property. [ACT IV
(Chapter II.—Of Transfers of Property by Act of
Parties.—Sections 36-37.)

it for two years without doing any act to express dissent.

Such knowledge or waiver may be inferred from any act of his which renders it impossible to place the persons interested in the property professed to be transferred in the same condition as if such act had not been done.

Illustration.

A transfers to B an estate to which C is entitled, and as part of the same transaction gives C a coal-mine. C takes possession of the mine and exhausts it. He has thereby confirmed the transfer of the estate to B.

If he does not within one year after the date of the transfer signify to the transferor or his representatives his intention to confirm or to dissent from the transfer, the transferor or his representatives may, upon the expiration of that period, require him to make his election; and, if he does not comply with such requisition within a reasonable time after he has received it, he shall be deemed to have elected to confirm the transfer.

In case of disability, the election shall be postponed until the disability ceases, or until the election is made by some competent authority.

Apportionment.

Apportion-
ment of peri-
odical pay-
ments on de-
termination
of interest of
person en-
titled.

36. In the absence of a contract or local usage to the contrary, all rents, annuities, pensions, dividends and other periodical payments in the nature of income shall, upon the transfer of the interest of the person entitled to receive such payments, be deemed, as between the transferor and transferee, to accrue due from day to day, and to be apportionable accordingly, but to be payable on the days appointed for the payment thereof.

Apportion-
ment of
benefit of ob-

37. When, in consequence of a transfer, property is divided and held in several shares, and thereupon

(Chapter II.—Of Transfers of Property by Act of Parties.—Section 38.)

thereupon the benefit of any obligation relating to the property as a whole passes from one to several owners of the property, the corresponding duty shall, in the absence of a contract to the contrary amongst the owners, be performed in favour of each of such owners in proportion to the value of his share in the property, provided that the duty can be severed and that the severance does not substantially increase the burden of the obligation; but if the duty cannot be severed, or if the severance would substantially increase the burden of the obligation, the duty shall be performed for the benefit of such one of the several owners as they shall jointly designate for that purpose :

ligation on
severance.

Provided that no person on whom the burden of the obligation lies shall be answerable for failure to discharge it in manner provided by this section, unless and until he has had reasonable notice of the severance.

Nothing in this section applies to leases for agricultural purposes unless and until the Local Government by notification in the official Gazette so directs.

Illustrations.

(a) A sells to B, C and D a house situated in a village and leased to E at an annual rent of Rs. 30 and delivery of one fat sheep, B having provided half the purchase-money and C and D one quarter each. E, having notice of this, must pay Rs. 15 to B, Rs. 7½ to C, and Rs. 7½ to D, and must deliver the sheep according to the joint direction of B, C and D.

(b) In the same case, each house in the village being bound to provide ten days' labour each year on a dyke to prevent inundation, E had agreed as a term of his lease to perform this work for A. B, C and D severally require E to perform the ten days' work due on account of the house of each. E is not bound to do more than ten days' work in all, according to such directions as B, C and D may join in giving.

B.—Transfer of Immoveable Property.

38. Where any person, authorized only under circumstances in their nature variable to dispose of

Transfer by
person
authorized
only under
immoveable

Transfer of Property. [ACT IV
(Chapter II.—Of Transfers of Property by Act of Parties—Section 39.)

certain circumstances to transfer.

immoveable property, transfers such property for consideration, alleging the existence of such circumstances, they shall, as between the transferee on the one part and the transferor and other persons (if any) affected by the transfer on the other part, be deemed to have existed, if the transferee, after using reasonable care to ascertain the existence of such circumstances, has acted in good faith.

Illustration.

A, a Hindu widow, whose husband has left collateral heirs alleging that the property held by her as such is insufficient for her maintenance, agrees, for purposes neither religious nor charitable, to sell a field, part of such property, to B. B satisfies himself by reasonable enquiry that the income of the property is insufficient for A's maintenance, and that the sale of the field is necessary, and, acting in good faith, buys the field from A. As between B on the one part and A and the collateral heirs on the other part, a necessity for the sale shall be deemed to have existed.

Transfer where third person is entitled to maintenance.

39. Where a third person has a right to receive maintenance or a provision for advancement or marriage from the profits of immoveable property, and such property is transferred with the intention of defeating such right, the right may be enforced against the transferee, if he has notice of such intention or if the transfer is gratuitous; but not against a transferee for consideration and without notice of the right, nor against such property in his hands.

Illustration.

A, a Hindu, transfers Sultanpur to his sister-in-law B, in lieu of her claim against him for maintenance in virtue of his having become entitled to her deceased husband's property, and agrees with her that, if she is dispossessed of Sultanpur, A will transfer to her an equal area out of such of several other specified villages in his possession as she may elect. A sells the specified villages to C, who buys in good faith, without notice of the agreement. B is dispossessed of Sultanpur. She has no claim on the villages transferred to C.

40. Where

(Chapter II.—Of Transfers of Property by Act of Parties.—Sections 40-42.)

40. Where,* for the more beneficial enjoyment of his own immoveable property, a third person has, independently of any interest in the immoveable property of another or of any easement thereon, a right to restrain the enjoyment of the latter property or to compel its enjoyment in a particular manner, or

Burden of obligation imposing restriction on use of land;

Where a third person is entitled to the benefit of an obligation arising out of contract and annexed to the ownership of immoveable property, but not amounting to an interest therein or easement thereon,

or of obligation annexed to ownership but not amounting to interest or easement.

such right or obligation may be enforced against a transferee with notice thereof or a gratuitous transferee of the property affected thereby, but not against a transferee for consideration and without notice of the right or obligation; nor against such property in his hands.

Illustration.

A contracts to sell Sultanpur to B. While the contract is still in force he sells Sultanpur to C, who has notice of the contract. B may enforce the contract against C to the same extent as against A.

41. Where, with the consent, express or implied, of the persons interested in immoveable property, a person is the ostensible owner of such property and transfers the same for consideration, the transfer shall not be voidable on the ground that the transferor was not authorized to make it: provided that the transferee, after taking reasonable care to ascertain that the transferor had power to make the transfer, has acted in good faith.

Transfer by ostensible owner.

42. Where a person transfers any immoveable property, reserving power to revoke the transfer, and subsequently transfers the property for consideration to another transferee, such transfer operates in favour of such transferee (subject to any condition attached to the exercise of the power) as a revocation of the former transfer to the extent of the power.

Transfer by person having authority to revoke former transfer.

Illustration..

Transfer of Property. [ACT IV
(Chapter II.—Of Transfers of Property by Act of
Parties.—Sections 43-44.)

Illustration.

A lets a house to B, and reserves power to revoke the lease if, in the opinion of a specified surveyor, B should make a use of it detrimental to its value. Afterwards A, thinking that such a use has been made, lets the house to C. This operates as a revocation of B's lease subject to the opinion of the surveyor as to B's use of the house having been detrimental to its value.

Transfer by
unauthorized
person who
subsequently
acquires
interest in
property
transferred.

43. Where a person erroneously represents that he is authorized to transfer certain immoveable property and professes to transfer such property for consideration, such transfer shall, at the option of the transferee, operate on any interest which the transferor may acquire in such property at any time during which the contract of transfer subsists.

Nothing in this section shall impair the right of transferees in good faith for consideration without notice of the existence of the said option.

Illustration.

A, a Hindu, who has separated from his father B, sells to C three fields, X, Y and Z, representing that A is authorized to transfer the same. Of these fields Z does not belong to A, it having been retained by B on the partition; but on B's dying A as heir obtains Z. C, not having rescinded the contract of sale, may require A to deliver Z to him.

Transfer by
one co-owner.

44. Where one of two or more co-owners of immoveable property legally competent in that behalf transfers his share of such property or any interest therein, the transferee acquires, as to such share or interest, and so far as is necessary to give effect to the transfer, the transferor's right to joint possession or other common or part enjoyment of the property, and to enforce a partition of the same, but subject to the conditions and liabilities affecting, at the date of the transfer, the share or interest so transferred.

Where the transferee of a share of a dwelling house belonging to an undivided family is not a member of the family, nothing in this section shall

be

be deemed to entitle him to joint possession or other common or part enjoyment of the house.

45. Where immoveable property is transferred for consideration to two or more persons, and such consideration is paid out of a fund belonging to them in common, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property identical, as nearly as may be, with the interests to which they were respectively entitled in the fund; and, where such consideration is paid out of separate funds belonging to them respectively, they are, in the absence of a contract to the contrary, respectively entitled to interests in such property in proportion to the shares of the consideration which they respectively advanced.

Joint transfer for consideration.

In the absence of evidence as to the interests in the fund to which they were respectively entitled, or as to the shares which they respectively advanced, such persons shall be presumed to be equally interested in the property.

46. Where immoveable property is transferred for consideration by persons having distinct interests therein, the transferors are, in the absence of a contract to the contrary, entitled to share in the consideration equally, where their interests in the property were of equal value, and, where such interests were of unequal value, proportionately to the value of their respective interests.

Transfer for consideration by persons having distinct interests.

Illustrations.

(a) A, owning a moiety, and B and C, each a quarter share, of mauza Sultanpur, exchange an eighth share of that mauza for a quarter share of mauza Lalpura. There being no agreement to the contrary, A is entitled to an eighth share in Lalpura, and B and C each to a sixteenth share in that mauza.

(b) A, being entitled to a life-interest in mauza Atrali and B and C to the reversion, sell the mauza for Rs. 1,000. A's life-interest is ascertained to be worth Rs. 600, the reversion

Rs. 400

(Chapter II.—Of Transfers of Property by Act of Parties.—Sections 47-50.)

Rs. 400. A is entitled to receive Rs. 600 out of the purchase money, B and C to receive Rs. 400.

Transfer by co-owners of share in common property.

47. Where several co-owners of immoveable property transfer a share therein without specifying that the transfer is to take effect on any particular share or shares of the transferors, the transfer as among such transferors, takes effect on such shares equally where the shares were equal, and where they were unequal, proportionately to the extent of such shares.

Illustration.

A, the owner of an eight-anna share, and B and C, each the owner of a four-anna share, in mauza Sultanpur, transfer a two-anna share in the mauza to D, without specifying from which of their several shares the transfer is made. To give effect to the transfer one-anna share is taken from the share of A, and half an anna share from each of the shares of B and C.

Priority of rights created by transfer.

48. Where a person purports to create by transfer at different times rights in or over the same immoveable property, and such rights cannot all exist or be exercised to their full extent together, each later created right shall, in the absence of a special contract or reservation binding the earlier transferees, be subject to the rights previously created.

Transferee's right under policy.

49. Where immoveable property is transferred for consideration, and such property or any part thereof is at the date of the transfer insured against loss or damage, by fire, the transferee, in case of such loss or damage, may, in the absence of a contract to the contrary, require any money which the transferor actually receives under the policy, or so much thereof as may be necessary, to be applied in reinstating the property.

Rent bond *vide* paid holder under defective title.

50. No person shall be chargeable with any rents or profits of any immoveable property, which he has in good faith paid or delivered to any person of whom he in good faith held such property, notwithstanding it may afterwards appear that the person to whom
such

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(Chapter II.—Of Transfers of Property by Act of Parties.—Sections 51-52.)

such payment or delivery was made had no right to receive such rents or profits.

Illustration.

A lets a field to B at a rent of Rs. 50, and then transfers the field to C. B, having no notice of the transfer, in good faith pays the rent to A. B is not chargeable with the rent so paid.

51. When the transferee of immoveable property makes any improvement on the property, believing in good faith that he is absolutely entitled thereto, and he is subsequently evicted therefrom by any person having a better title, the transferee has a right to require the person causing the eviction either to have the value of the improvement estimated and paid or secured to the transferee, or to sell his interest in the property to the transferee at the then market value thereof irrespective of the value of such improvement.

Improvements made by *bona fide* holders under defective titles.

The amount to be paid or secured in respect of such improvement shall be the estimated value thereof at the time of the eviction.

When, under the circumstances aforesaid, the transferee has planted or sown on the property crops which are growing when he is evicted therefrom, he is entitled to such crops and to free ingress and egress to gather and carry them.

52. During the active prosecution in any Court having authority in British India, or established beyond the limits of British India by the Governor General in Council, of a contentious suit or proceeding in which any right to immoveable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the

Transfer of property pending suit relating thereto.

authority .

(*Chapter II.—Of Transfers of Property by Act of Parties.—Section 53. Chapter III.—Of Sales of Immoveable Property.—Section 54.*)

authority of the Court and on such terms as it may impose.

Fraudulent transfer.

53. Every transfer of immoveable property, made with intent to defraud prior or subsequent transferees thereof for consideration, or co-owners or other persons having an interest in such property, or to defeat or delay the creditors of the transferor, is voidable at the option of any person so defrauded, defeated or delayed.

Where the effect of any transfer of immoveable property is to defraud, defeat or delay any such person, and such transfer is made gratuitously or for a grossly inadequate consideration, the transfer may be presumed to have been made with such intent as aforesaid.

Nothing contained in this section shall impair the rights of any transferee in good faith and for consideration.

CHAPTER III.

OF SALES OF IMMOVEABLE PROPERTY.

"Sale" defined.

54. "Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made.

¹ Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

¹ In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery

¹ As to limitation to the territorial operation of paragraphs 2 and 3 of s. 54, see s. 1, *supra*. These paragraphs extend to every cantonment in British India—see the Cantonments Act, 1889 (XIII of 1889), s. 32 (1), printed, General Acts, Vol. V, Ed. 1898, p. 335.

*(Chapter III.—Of Sales of Immoveable Property.—
Section 55.)*

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

A contract for the sale of immoveable property is a contract that a sale of such property shall take place on terms settled between the parties.

Contract for sale.

It does not, of itself, create any interest in or charge on such property.

55. In the absence of a contract to the contrary, the buyer and the seller of immoveable property respectively are subject to the liabilities, and have the rights, mentioned in the rules next following, or such of them as are applicable to the property sold :

Rights and liabilities of buyer and seller.

(1) The seller is bound—

- (a) to disclose to the buyer any material defect in the property of which the seller is, and the buyer is not, aware, and which the buyer could not with ordinary care discover ;
- (b) to produce to the buyer on his request for examination all documents of title relating to the property which are in the seller's possession or power ;
- (c) to answer to the best of his information all relevant questions put to him by the buyer in respect to the property or the title thereto ;
- (d) on payment or tender of the amount due in respect of the price, to execute a proper conveyance of the property when the buyer tenders it to him for execution at a proper time and place ;
- (e) between the date of the contract of sale and the delivery of the property, to take as much care of the property and all documents of title relating thereto which are in his

possession .

Transfer of Property. [ACT IV
(Chapter III.—Of Sales of Immoveable Property.—
Section 55.)

possession as an owner of ordinary prudence would take of such property and documents ;

(f) to give, on being so required, the buyer, or such person as he directs, such possession of the property as its nature admits ; -

(g) to pay all public charges and rent accrued due in respect of the property up to the date of the sale, the interest on all incumbrances on such property due on such date, and, except where the property is sold subject to incumbrances, to discharge all incumbrances on the property then existing.

(2) The seller shall be deemed to contract with the buyer that the interest which the seller professes to transfer to the buyer subsists and that he has power to transfer the same :

Provided that, where the sale is made by a person in a fiduciary character, he shall be deemed to contract with the buyer that the seller has done no act whereby the property is incumbered or whereby he is hindered from transferring it.

The benefit of the contract mentioned in this rule shall be annexed to, and shall go with, the interest of the transferee as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

(3) Where the whole of the purchase-money has been paid to the seller, he is also bound to deliver to the buyer all documents of title relating to the property which are in the seller's possession or power :

Provided that (a), where the seller retains any part of the property comprised in such documents, he is entitled to retain them all, and (b), where the whole of such property is sold to different buyers, the buyer of the lot of greatest value is entitled to such documents. But in case (a) the seller, and in case (b)

the

the buyer of the lot of greatest value, is bound, upon every reasonable request by the buyer, or by any of the other buyers, as the case may be, and at the cost of the person making the request, to produce the said documents and furnish such true copies thereof or extracts therefrom as he may require; and in the meantime, the seller, or the buyer of the lot of greatest value, as the case may be, shall keep the said documents safe, uncanceled and undefaced, unless prevented from so doing by fire or other inevitable accident.

(4) The seller is entitled—

- (a) to the rents and profits of the property till the ownership thereof pass to the buyer;
- (b) where the ownership of the property has passed to the buyer before payment of the whole of the purchase-money, to a charge upon the property in the hands of the buyer for the amount of the purchase-money, or any part thereof remaining unpaid, and for interest on such amount or part.

(5) The buyer is bound—

- (a) to disclose to the seller any fact as to the nature or extent of the seller's interest in the property of which the buyer is aware, but of which he has reason to believe that the seller is not aware, and which materially increases the value of such interest;
- (b) to pay or tender, at the time and place of completing the sale, the purchase-money to the seller or such person as he directs: provided that, where the property is sold free from incumbrances, the buyer may retain out of the purchase-money the amount of any incumbrances on the property existing at the date of the sale, and shall pay the
amount

*(Chapter III.—Of Sales of Immoveable Property.—
Section 55.)*

amount so retained to the persons entitled thereto ;

- (c) where the ownership of the property has passed to the buyer, to bear any loss arising from the destruction, injury or decrease in value of the property not caused by the seller ;
- (d) where the ownership of the property has passed to the buyer, as between himself and the seller, to pay all public charges and rent which may become payable in respect of the property, the principal moneys due on any incumbrances subject to which the property is sold, and the interest thereon afterwards accruing due.

(6) The buyer is entitled—

- (a) where the ownership of the property has passed to him, to the benefit of any improvement in, or increase in value of, the property, and to the rents and profits thereof ;
- (b) unless he has improperly declined to accept delivery of the property, to a charge on the property, as against the seller and all persons claiming under him with notice of the payment, to the extent of the seller's interest in the property, for the amount of any purchase-money properly paid by the buyer in anticipation of the delivery and for interest on such amount ; and, when he properly declines to accept the delivery, also for the earnest (if any) and for the costs (if any) awarded to him of a suit to compel specific performance of the contract or to obtain a decree for its rescission.

An omission to make such disclosures as are mentioned in this section, paragraph (1), clause (a), and paragraph (5), clause (a), is fraudulent.

56. Where

*(Chapter III.—Of Sales of Immoveable Property.—
Sections 56-57.)*

56. Where two properties are subject to a common charge, and one of the properties is sold, the buyer is, as against the seller, in the absence of a contract to the contrary, entitled to have the charge satisfied out of the other property, so far as such property will extend.

Sale of one of two properties subject to a common charge.

Discharge of Incumbrances on Sale.

57. (a) Where immoveable property subject to any incumbrance, whether immediately payable or not, is sold by the Court or in execution of a decree, or out of Court, the Court may, if it thinks fit, on the application of any party to the sale, direct or allow payment into Court,

Provision by Court for incumbrances and sale freed therefrom.

(1) in case of an annual or monthly sum charged on the property, or of a capital sum charged on a determinable interest in the property,—of such amount as, when invested in securities of the Government of India, the Court considers will be sufficient, by means of the interest thereof, to keep down or otherwise provide for that charge, and

(2) in any other case of a capital sum charged on the property,—of the amount sufficient to meet the incumbrance and any interest due thereon.

But in either case there shall also be paid into Court such additional amount as the Court considers will be sufficient to meet the contingency of further costs, expenses and interest, and any other contingency except depreciation of investments, not exceeding one-tenth part of the original amount to be paid in, unless the Court for special reasons (which it shall record) thinks fit to require a larger additional amount.

(b) Thereupon the Court may, if it thinks fit, and after notice to the incumbrancer, unless the Court, for reasons to be recorded in writing, thinks fit to

dispense

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 58.)

dispense with such notice, declare the property to be freed from the incumbrance, and make any order for conveyance, or vesting order, proper for giving effect to the sale, and give directions for the retention and investment of the money in Court.

(c) After notice served on the persons interested in or entitled to the money or fund in Court, the Court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof.

(d) An appeal shall lie from any declaration, order or direction under this section as if the same were a decree.

(e) In this section "Court" means (1) a High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, (2) the Court of a District Judge within the local limits of whose jurisdiction the property or any part thereof is situate, (3) any other Court which the Local Government may, from time to time, by notification in the official Gazette, declare to be competent to exercise the jurisdiction conferred by this section.

CHAPTER IV.

OF MORTGAGES OF IMMOVEABLE PROPERTY AND CHARGES.

58. (a) A mortgage is the transfer of an interest in specific immoveable property for the purpose of securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

"Mortgage",
"mortgagor",
"mortgagee",
"mortgage-
money" and
"mortgage-
deed" de-
fined.

The transferor is called a mortgagor, the transferee a mortgagee; the principal money and interest of which

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 58.)

which payment is secured for the time being are called the mortgage-money, and the instrument (if any) by which the transfer is effected is called a mortgage-deed.

(b) Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money, and agrees, expressly or impliedly, that, in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage-money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee.

Simple mortgage.

(c) Where the mortgagor ostensibly sells the mortgaged property—

Mortgage by conditional sale.

on condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or

on condition that on such payment being made the sale shall become void, or

on condition that on such payment being made the buyer shall transfer the property to the seller,

the transaction is called a mortgage by conditional sale and the mortgagee a mortgagee by conditional sale.

(d) Where the mortgagor delivers possession of the mortgaged property to the mortgagee, and authorizes him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property and to appropriate them in lieu of interest, or in payment of the mortgage-money, or partly in lieu of interest and partly in payment of the mortgage-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee.

Usufructuary mortgage.

(e) Where

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 59-60.)

English mortgage.

(e) Where the mortgagor binds himself to re-pay the mortgage-money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed, the transaction is called an English mortgage.

Mortgage when to be by assurance.

¹ 59. Where the principal money secured is one hundred rupees or upwards a mortgage can be effected only by a registered instrument signed by the mortgagor and attested by at least two witnesses.

Where the principal money secured is less than one hundred rupees, a mortgage may be effected either by an instrument signed and attested as aforesaid, or (except in the case of a simple mortgage) by delivery of the property.

Nothing in this section shall be deemed to render invalid mortgages made in the towns of Calcutta, Madras, Bombay, Karachi and Rangoon, by delivery to a creditor or his agent of documents of title to immoveable property, with intent to create a security thereon.

Rights and Liabilities of Mortgagor.

Right of mortgagor to redeem.

60. At any time after the principal money has become payable, the mortgagor has a right, on payment or tender, at a proper time and place, of the mortgage-money, to require the mortgagee (a) to deliver the mortgage-deed, if any, to the mortgagor, (b) where the mortgagee is in possession of the mortgaged property, to deliver possession thereof to the mortgagor, and (c) at the cost of the mortgagor either to re-transfer the mortgaged property to him or to such third person as he may direct, or to execute and (where the mortgage

has

¹ As to limitation to the territorial operation of s. 59, see s. 1, *supra*. Section 59 extends to every cantonment in British India—see the Cantonments Act, 1889 (XIII of 1889), s. 32 (1), printed, General Acts, Vol. V, Ed. 1898, p. 335.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 61.)

has been effected by a registered instrument) to have registered an acknowledgment in writing that any right in derogation of his interest transferred to the mortgagee has been extinguished :

Provided that the right conferred by this section has not been extinguished by act of the parties or by order of a Court.

The right conferred by this section is called a right to redeem, and a suit to enforce it is called a suit for redemption.

Nothing in this section shall be deemed to render invalid any provision to the effect that, if the time fixed for payment of the principal money has been allowed to pass or no such time has been fixed, the mortgagee shall be entitled to reasonable notice before payment or tender of such money.

Nothing in this section shall entitle a person interested in a share only of the mortgaged property to redeem his own share only, on payment of a proportionate part of the amount remaining due on the mortgage, except where a mortgagee, or, if there are more mortgagees than one, all such mortgagees, has or have acquired, in whole or in part, the share of a mortgagor.

Redemption of portion of mortgaged property.

61. A mortgagor seeking to redeem any one mortgage shall, in the absence of a contract to the contrary, be entitled to do so without paying any money due under any separate mortgage made by him, or by any person through whom he claims, on property other than that comprised in the mortgage which he seeks to redeem.

Right to redeem one of two properties separately mortgaged.

Illustration.

A, the owner of farms Z and Y, mortgages Z to B for Rs. 1,000. A afterwards mortgages Y to B for Rs. 1,000, making no stipulation as to any additional charge on Z. A may institute a suit for the redemption of the mortgage on Z alone.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 62-63.)

Right of usufructuary mortgagor to recover possession.

62. In the case of a usufructuary mortgage, the mortgagor has a right to recover possession of the property—

(a) where the mortgagee is authorized to pay himself the mortgage-money from the rents and profits of the property,—when such money is paid;

(b) where the mortgagee is authorized to pay himself from such rents and profits the interest of the principal money,—when the term (if any), prescribed for the payment of the mortgage-money has expired and the mortgagor pays or tenders to the mortgagee the principal money or deposits it in Court as hereinafter provided.

Accession to mortgaged property.

63. Where mortgaged property in possession of the mortgagee has, during the continuance of the mortgage, received any accession, the mortgagor, upon redemption, shall, in the absence of a contract to the contrary, be entitled as against the mortgagee to such accession.

Accession acquired in virtue of transferred ownership.

Where such accession has been acquired at the expense of the mortgagee, and is capable of separate possession or enjoyment without detriment to the principal property, the mortgagor desiring to take the accession must pay to the mortgagee the expense of acquiring it. If such separate possession or enjoyment is not possible, the accession must be delivered with the property, the mortgagor being liable, in the case of an acquisition necessary to preserve the property from destruction, forfeiture or sale, or made with his assent, to pay the proper cost thereof, as an addition to the principal money, at the same rate of interest.

In the case last mentioned the profits, if any, arising from the accession shall be credited to the mortgagor.

Where

Where the mortgage is usufructuary and the accession has been acquired at the expense of the mortgagee, the profits, if any, arising from the accession shall, in the absence of a contract to the contrary, be set off against interest, if any, payable on the money so expended.

64. Where the mortgaged property is a lease for a term of years, and the mortgagee obtains a renewal of the lease, the mortgagor, upon redemption, shall, in the absence of a contract by him to the contrary, have the benefit of the new lease.

Renewal of mortgaged lease.

65. In the absence of a contract to the contrary, the mortgagor shall be deemed to contract with the mortgagee—

Implied contracts by mortgagor.

- (a) that the interest which the mortgagor professes to transfer to the mortgagee subsists, and that the mortgagor has power to transfer the same ;
- (b) that the mortgagor will defend, or, if the mortgagee be in possession of the mortgaged property, enable him to defend, the mortgagor's title thereto ;
- (c) that the mortgagor will, so long as the mortgagee is not in possession of the mortgaged property, pay all public charges accruing due in respect of the property ;
- (d) and, where the mortgaged property is a lease for a term of years, that the rent payable under the lease, the conditions contained therein, and the contracts binding on the lessee have been paid, performed and observed down to the commencement of the mortgage ; and that the mortgagor will, so long as the security exists and the mortgagee is not in possession of the mortgaged property; pay the rent reserved by the lease, or, if the lease be renewed, the renewed

lease

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 66-67.)

lease, perform the conditions contained therein and observe the contracts binding on the lessee, and indemnify the mortgagee against all claims sustained by reason of the non-payment of the said rent or the non-performance or non-observance of the said conditions and contracts ;

- (e) and, where the mortgage is a second or subsequent incumbrance on the property, that the mortgagor will pay the interest from time to time accruing due on each prior incumbrance as and when it becomes due, and will at the proper time discharge the principal money due on such prior incumbrance.

Nothing in clause (c), or in clause (d), so far as it relates to the payment of future rent, applies in the case of an usufructuary mortgage.

The benefit of the contracts mentioned in this section shall be annexed to and shall go with the interest of the mortgagee as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

Waste by
mortgagor in
possession.

66. A mortgagor in possession of the mortgaged property is not liable to the mortgagee for allowing the property to deteriorate ; but he must not commit any act which is destructive or permanently injurious thereto, if the security is insufficient or will be rendered insufficient by such act.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Rights and Liabilities of Mortgagee.

Right to
foreclosure or
sale.

67. In the absence of a contract to the contrary, the mortgagee has at any time after the mortgage-money

money has become payable to him, and before a decree has been made for the redemption of the mortgaged property, or the mortgage-money has been paid or deposited as hereinafter provided, a right to obtain from the Court an order that the mortgagor shall be absolutely debarred of his right to redeem the property, or an order that the property be sold.

A suit to obtain an order that a mortgagor shall be absolutely debarred of his right to redeem the mortgaged property is called a suit for foreclosure.

Nothing in this section shall be deemed—

- (a) to authorize a simple mortgagee as such to institute a suit for foreclosure, or an usufructuary mortgagee as such to institute a suit for foreclosure or sale, or a mortgagee by conditional sale as such to institute a suit for sale; or
- (b) to authorize a mortgagor who holds the mortgagee's rights as his trustee or legal representative, and who may sue for a sale of the property, to institute a suit for foreclosure; or
- (c) to authorize the mortgagee of a railway, canal or other work in the maintenance of which the public are interested, to institute a suit for foreclosure or sale; or
- (d) to authorize a person interested in part only of the mortgage-money to institute a suit relating only to a corresponding part of the mortgaged property, unless the mortgagees have, with the consent of the mortgagor, severed their interests under the mortgage.

68. The mortgagee has a right to sue the mortgagor for the mortgage-money in the following cases only :—

Right to sue
for mortgage-
money.

- (a) where the mortgagor binds himself to repay the same :

- (b) where

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 69.)

- (b) where the mortgagee is deprived of the whole or part of his security by or in consequence of the wrongful act or default of the mortgagor :
- (c) where, the mortgagee being entitled to possession of the property, the mortgagor fails to deliver the same to him, or to secure the possession thereof to him without disturbance by the mortgagor or any other person.

Where, by any cause other than the wrongful act or default of the mortgagor or mortgagee, the mortgaged property has been wholly or partially destroyed, or the security is rendered insufficient as defined in section 66, the mortgagee may require the mortgagor to give him within a reasonable time another sufficient security for his debt, and, if the mortgagor fails so to do, may sue him for the mortgage-money.

Power of sale
when valid.

69. A power conferred by the mortgage-deed on the mortgagee, or on any person on his behalf, to sell or concur in selling, in default of payment of the mortgage-money, the mortgaged property, or any part thereof, without the intervention of the Court, is valid in the following cases ¹ [and in no others,] namely :—

- (a) where the mortgage is an English mortgage, and neither the mortgagor nor the mortgagee is a Hindu, Muhammadan or Buddhist ¹ [or a member of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor General in Council, in the local official Gazette];

(b) where

¹ These words were inserted by the Transfer of Property Act (1882) Amendment Act, 1885 (III of 1885), s. 5, printed, General Acts, Vol. V, Ed. 1898, p. 3.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 69.)

- (b) where the mortgagee is the Secretary of State for India in Council ;
- (c) where the mortgaged property or any part thereof is situate within the towns of Calcutta, Madras, Bombay, Karachi or Rangoon.

But no such power shall be exercised unless and until—

- (1) notice in writing requiring payment of the principal money has been served on the mortgagor, or on one of several mortgagors, and default has been made in payment of the principal money, or of part thereof, for three months after such service ; or
- (2) some interest under the mortgage amounting at least to five hundred rupees is in arrear and unpaid for three months after becoming due.

When a sale has been made in professed exercise of such a power, the title of the purchaser shall not be impeachable on the ground that no case had arisen to authorize the sale, or that due notice was not given, or that the power was otherwise improperly or irregularly exercised ; but any person damnified by an unauthorized or improper or irregular exercise of the power shall have his remedy in damages against the person exercising the power.

The money which is received by the mortgagee, arising from the sale, after discharge of prior incumbrances, if any, to which the sale is not made subject, or after payment into Court under section 57 of a sum to meet any prior incumbrance, shall, in the absence of a contract to the contrary, be held by him in trust to be applied by him, first, in payment of all costs, charges and expenses properly incurred by him as incident to the sale or any attempted sale ; and, secondly, in discharge of the mortgage-money and

costs

Transfer of Property. [ACT IV
(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 70-71.)

costs and other money, if any, due under the mortgage; and the residue of the money so received shall be paid to the person entitled to the mortgaged property or authorized to give receipts for the proceeds of the sale thereof.

Nothing in the former part of this section applies to powers conferred before this Act comes into force.

The powers and provisions contained in sections 6 to 19 (both inclusive) of the Trustees and Mortgages' Powers Act, 1866,¹ shall be deemed to apply ^{XXVIII of 1866.} to English mortgages, wherever in British India the mortgaged property may be situate, when neither the mortgagor nor the mortgagee is a Hindu, Muhammadan or Buddhist,² [or a member of any other race, sect, tribe or class from time to time specified in this behalf by the Local Government, with the previous sanction of the Governor General in Council, in the local official Gazette].

Accession
to mortgaged
property.

70. If, after the date of a mortgage, any accession is made to the mortgaged property, the mortgagee, in the absence of a contract to the contrary, shall, for the purposes of the security, be entitled to such accession.

Illustrations.

(a) A mortgages to B a certain field bordering on a river. The field is increased by alluvion. For the purposes of his security, B is entitled to the increase.

(b) A mortgages a certain plot of building land to B and afterwards erects a house on the plot. For the purposes of his security B is entitled to the house as well as the plot.

Renewal of
mortgaged
lease.

71. When the mortgaged property is a lease for a term of years, and the mortgagor obtains a renewal of the lease, the mortgagee, in the absence of a contract to the contrary, shall, for the purposes of the security, be entitled to the new lease.

72. When

¹ Printed, General Acts, Vol. I, p. 611.

² These words were inserted by the Transfer of Property Act (1882) Amendment Act, 1885 (III of 1885), s. 5, printed, General Acts, Vol. V Ed. 1898, p. 3.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 72.)

72. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property, he may spend such money as is necessary—

Rights of mortgagee in possession.

- (a) for the due management of the property and the collection of the rents and profits thereof;
- (b) for its preservation from destruction, forfeiture or sale;
- (c) for supporting the mortgagor's title to the property;
- (d) for making his own title thereto good against the mortgagor; and
- (e) when the mortgaged property is a renewable leasehold, for the renewal of the lease;

and may, in the absence of a contract to the contrary, add such money to the principal money, at the rate of interest payable on the principal, and, where no such rate is fixed, at the rate of nine per cent. per annum.

Where the property is by its nature insurable, the mortgagee may also, in the absence of a contract to the contrary, insure and keep insured against loss or damage by fire the whole or any part of such property; and the premiums paid for any such insurance shall be a charge on the mortgaged property, in addition to the principal money, with the same priority and with interest at the same rate. But the amount of such insurance shall not exceed the amount specified in this behalf in the mortgage-deed or (if no such amount is therein specified) two-thirds of the amount that would be required in case of total destruction to reinstate the property insured.

Nothing in this section shall be deemed to authorize the mortgagee to insure when an insurance of the property

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 73-76.)

property is kept up by or on behalf of the mortgagor to the amount in which the mortgagee is hereby authorized to insure.

Charge on proceeds of revenue sale.

73. Where mortgaged property is sold through failure to pay arrears of revenue or rent due in respect thereof, the mortgagee has a charge on the surplus, if any of the proceeds, after payment thereout of the said arrears, for the amount remaining due on the mortgage, unless the sale has been occasioned by some default on his part.

Right of subsequent mortgagee to pay off prior mortgagee.

74. Any second or other subsequent mortgagee may, at any time after the amount due on the next prior mortgage has become payable, tender such amount to the next prior mortgagee, and such mortgagee is bound to accept such tender and to give a receipt for such amount; and (subject to the provisions of the law¹ for the time being in force regulating the registration of documents) the subsequent mortgagee shall, on obtaining such receipt, acquire, in respect of the property, all the rights and powers of the mortgagee, as such, to whom he has made such tender.

Rights of mesne mortgagee against prior and subsequent mortgagees.

75. Every second or other subsequent mortgagee has, so far as regards redemption, foreclosure and sale of the mortgaged property, the same rights against the prior mortgagee or mortgagees as his mortgagor has against such prior mortgagee or mortgagees, and the same rights against the subsequent mortgagees (if any) as he has against his mortgagor.

Liabilities of mortgagee in possession.

76. When, during the continuance of the mortgage, the mortgagee takes possession of the mortgaged property,—

(a) he must manage the property as a person of ordinary prudence would manage it if it were his own;

(b) he

¹ See the Indian Registration Act, 1877 (III of 1877), printed, General Acts, Vol. III, Ed. 1898, p. 41.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 76.)

- (b) he must use his best endeavours to collect the rents and profits thereof ;
- (c) he must, in the absence of a contract to the contrary, out of the income of the property, pay the Government revenue, all other charges of a public nature accruing due in respect thereof during such possession and any arrears of rent in default of payment of which the property may be summarily sold ;
- (d) he must, in the absence of a contract to the contrary, make such necessary repairs of the property as he can pay for out of the rents and profits thereof after deducting from such rents and profits the payments mentioned in clause (c) and the interest on the principal money ;
- (e) he must not commit any act which is destructive or permanently injurious to the property ;
- (f) where he has insured the whole or any part of the property against loss or damage by fire, he must, in case of such loss or damage, apply any money which he actually receives under the policy or so much thereof as may be necessary, in reinstating the property, or, if the mortgagor so directs, in reduction or discharge of the mortgage-money ;
- (g) he must keep clear, full and accurate accounts of all sums received and spent by him as mortgagee, and at any time during the continuance of the mortgage, give the mortgagor, at his request and cost, true copies of such accounts and of the vouchers by which they are supported ;
- (h) his receipts from the mortgaged property, or, where such property is personally occupied

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 77-78.)

occupied by him, a fair occupation-rent in respect thereof, shall, after deducting the expenses mentioned in clauses (c) and (d), and interest thereon, be debited against him in reduction of the amount (if any) from time to time due to him on account of interest on the mortgage-money and, so far as such receipts exceed any interest due, in reduction or discharge of the mortgage-money; the surplus, if any, shall be paid to the mortgagor;

- (i) when the mortgagor tenders, or deposits in manner hereinafter provided, the amount for the time being due on the mortgage, the mortgagee must, notwithstanding the provisions in the other clauses of this section, account for his gross receipts from the mortgaged property from the date of the tender or from the earliest time when he could take such amount out of Court, as the case may be.

Loss occasioned by his default.

If the mortgagee fail to perform any of the duties imposed upon him by this section, he may, when accounts are taken in pursuance of a decree made under this chapter, be debited with the loss, if any, occasioned by such failure.

Receipts in lieu of interest.

77. Nothing in section 76, clauses (b), (d), (g) and (h), applies to cases where there is a contract between the mortgagee and the mortgagor that the receipts from the mortgaged property shall, so long as the mortgagee is in possession of the property, be taken in lieu of interest on the principal money, or in lieu of such interest and defined portions of the principal.

Priority.

Postponement of prior mortgagee.

78. Where, through the fraud, misrepresentation or gross neglect of a prior mortgagee, another person has

has been induced to advance money on the security of the mortgaged property, the prior mortgagee shall be postponed to the subsequent mortgagee.

79. If a mortgage made to secure future advances, the performance of an engagement or the balance of a running account, expresses the maximum to be secured thereby, a subsequent mortgage of the same property shall, if made with notice of the prior mortgage, be postponed to the prior mortgage in respect of all advances or debits not exceeding the maximum, though made or allowed with notice of the subsequent mortgage.

Mortgage to secure uncertain amount when maximum is expressed.

Illustration.

A mortgages Sultanpur to his bankers, B & Co., to secure the balance of his account with them to the extent of Rs. 10,000. A then mortgages Sultanpur to C, to secure Rs. 10,000, C having notice of the mortgage to B & Co., and C gives notice to B & Co., of the second mortgage. At the date of the second mortgage, the balance due to B & Co. does not exceed Rs. 5,000. B & Co. subsequently advance to A sums making the balance of the account against him exceed the sum of Rs. 10,000. B & Co. are entitled, to the extent of Rs. 10,000, to priority over C.

80. No mortgagee paying off a prior mortgage, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his original security. And, except in the case provided for by section 79, no mortgagee making a subsequent advance to the mortgagor, whether with or without notice of an intermediate mortgage, shall thereby acquire any priority in respect of his security for such subsequent advance.

Tacking abolished.

Marshalling and Contribution.

81. If the owner of two properties mortgages them both to one person and then mortgages one of the properties to another person who has not notice of the former mortgage, the second mortgagee is, in the absence of a contract to the contrary, entitled to have

Marshalling securities.

the

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 82-83.)

the debt of the first mortgagee satisfied out of the property not mortgaged to the second mortgagee so far as such property will extend, but not so as to prejudice the rights of the first mortgagee or of any other person having acquired for valuable consideration an interest in either property.

Contribution
to mortgage
debt.

82. Where several properties, whether of one or several owners, are mortgaged to secure one debt, such properties are, in the absence of a contract to the contrary, liable to contribute rateably to the debt secured by the mortgage, after deducting from the value of each property the amount of any other incumbrance to which it is subject at the date of the mortgage.

Where, of two properties belonging to the same owner, one is mortgaged to secure one debt and then both are mortgaged to secure another debt, and the former debt is paid out of the former property, each property is, in the absence of a contract to the contrary, liable to contribute rateably to the latter debt after deducting the amount of the former debt from the value of the property out of which it has been paid.

Nothing in this section applies to a property liable under section 81 to the claim of the second mortgagee.

Deposit in Court.

Power to
deposit in
Court money
due on
mortgage.

83. At any time after the principal money has become payable and before a suit for redemption of the mortgaged property is barred, the mortgagor, or any other person entitled to institute such suit, may deposit, in any Court in which he might have instituted such suit, to the account of the mortgagee, the amount remaining due on the mortgage.

Right to
money

The Court shall thereupon cause written notice of the deposit to be served on the mortgagee, and the mortgagee

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 84-86.)

mortgagee may, on presenting a petition (verified in manner prescribed by law¹ for the verification of complaints) stating the amount then due on the mortgage, and his willingness to accept the money so deposited in full discharge of such amount, and on depositing in the same Court the mortgage-deed if then in his possession or power, apply for and receive the money, and the mortgage-deed so deposited shall be delivered to the mortgagor or such other person as aforesaid.

deposited by
mortgagor.

84. When the mortgagor or such other person as aforesaid has tendered or deposited in Court under section 83 the amount remaining due on the mortgage, interest on the principal money shall cease from the date of the tender or as soon as the mortgagor or such other person as aforesaid has done all that has to be done by him to enable the mortgagee to take such amount out of Court, as the case may be.

Cessation of
interest.

Nothing in this section or in section 83 shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage-money.

Suits for Foreclosure, Sale or Redemption.

85. Subject to the provisions of the Code of Civil Procedure, section 437,² all persons having an interest in the property comprised in a mortgage must be joined as parties to any suit under this chapter relating to such mortgage: Provided that the plaintiff has notice of such interest.

Parties to
suits for
foreclosure,
sale and
redemption.

Foreclosure and Sale.

86. In a suit for foreclosure, if the plaintiff succeeds, the Court shall make a decree, ordering that an account

Decree in
foreclosure-
suit.

¹ See the Code of Civil Procedure (Act XIV of 1882), ss. 51 and 52; printed, General Acts, Ed. 1898, Vol. IV, see also in the revised edition as modified up to 1st December, 1899.

² See s. 437 of Act XIV of 1882.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 87.)

account be taken of what will be due to the plaintiff for principal and interest on the mortgage, and for his costs of the suit, if any, awarded to him, on the day next hereinafter referred to, or declaring the amount so due at the date of such decree,

and ordering that, upon the defendant paying to the plaintiff or into Court the amount so due, on a day within six months from the date of declaring in Court the amount so due; to be fixed by the Court, the plaintiff shall deliver up to the defendant; or to such person as he appoints, all documents in his possession or power relating to the mortgaged property, and shall transfer the property to the defendant free from all incumbrances created by the plaintiff or any person claiming under him, or, where the plaintiff claims by derived title, by those under whom he claims; and shall, if necessary, put the defendant into possession of the property; but

that, if the payment is not made on or before the day to be fixed by the Court, the defendant shall be absolutely debarred of all right to redeem the property.

Procedure in
case of
payment of
amount due.

87. If payment is made of such amount and of such subsequent costs as are mentioned in section 94, the defendant shall (if necessary) be put into possession of the mortgaged property.

Order
absolute for
foreclosure.

If such payment is not so made, the plaintiff may apply to the Court for an order that the defendant and all persons claiming through or under him be debarred absolutely of all right to redeem the mortgaged property, and the Court shall then pass such order, and may, if necessary, deliver possession of the property to the plaintiff:

Power to
enlarge time.

Provided that the Court may, upon good cause shewn, and upon such terms, if any, as it thinks fit, from time to time postpone the day appointed for such payment.

On

1882.]

Transfer of Property.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 88-89.)

On the passing of an order under the second paragraph of this section the debt secured by the mortgage shall be deemed to be discharged.

XIV of 1882.

¹ In the Code of Civil Procedure, Schedule IV, No. 129, for the words "Final decree," the words "Decree absolute" shall be substituted.

88. In a suit for sale, if the plaintiff succeeds, the Court shall pass a decree to the effect mentioned in the first and second paragraphs of section 86, and also ordering that, in default of the defendant paying as therein mentioned, the mortgaged property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into Court and applied in payment of what is so found due to the plaintiff, and that the balance, if any, be paid to the defendant or other persons entitled to receive the same.

Decree for sale.

In a suit for foreclosure, if the plaintiff succeeds and the mortgage is not a mortgage by conditional sale, the Court may, at the instance of the plaintiff, or of any person interested either in the mortgage-money or in the right of redemption, if it thinks fit, pass a like decree (in lieu of a decree for foreclosure) on such terms as it thinks fit, including, if it thinks fit, the deposit in Court of a reasonable sum, fixed by the Court, to meet the expenses of sale and to secure the performance of the terms.

Power to decree sale in foreclosure suit.

89. If in any case under section 88 the defendant pays to the plaintiff or into Court on the day fixed as aforesaid the amount due under the mortgage, the costs, if any, awarded to him and such subsequent costs as are mentioned in section 94, the defendant shall (if necessary) be put in possession of the mortgaged property; but if such payment is not so made, the plaintiff or the defendant, as the case may be, may apply to the Court for an order absolute for sale

Procedure when defendant pays amount due.

Order absolute for sale.

of

¹ See now Schedule IV, No. 129 of Act XIV of 1882.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 90-91.)

of the mortgaged property, and the Court shall then pass an order that such property, or a sufficient part thereof, be sold, and that the proceeds of the sale be dealt with as is mentioned in section 88; and thereupon the defendant's right to redeem and the security shall both be extinguished.

Recovery of
balance due
on mortgage.

90. When the nett proceeds of any such sale are insufficient to pay the amount due for the time being on the mortgage, if the balance is legally recoverable from the defendant otherwise than out of the property sold, the Court may pass a decree for such sum.

Redemption.

Who may sue
for redemption.

91. Besides the mortgagor, any of the following persons may redeem, or institute a suit for redemption of, the mortgaged property :—

- (a) any person (other than the mortgagee of the interest sought to be redeemed), having any interest in or charge upon the property ;
- (b) any person having any interest in or charge upon the right to redeem the property ;
- (c) any surety for the payment of the mortgage-debt or any part thereof ;
- (d) the guardian of the property of a minor mortgagor on behalf of such minor ;
- (e) the committee or other legal curator of a lunatic or idiot mortgagor on behalf of such lunatic or idiot ;
- (f) the judgment-creditor of the mortgagor, when he has obtained execution by attachment of the mortgagor's interest in the property ;
- (g) a creditor of the mortgagor who has, in a suit for the administration of his estate, obtained a decree for sale of the mortgaged property.

92. In

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 92-93.)

92. In a suit for redemption, if the plaintiff succeeds, the Court shall pass a decree ordering—

Decree in redemption - suit.

that an account be taken of what will be due to the defendant for the mortgage-money and for his costs of the suit, if any, awarded to him, on the day next hereinafter referred to, or declaring the amount so due at the date of such decree ;

that, upon the plaintiff paying to the defendant or into Court the amount so due on a day within six months from the date of declaring in Court the amount so due to be fixed by the Court, the defendant shall deliver up to the plaintiff, or to such person as he appoints, all documents in his possession or power relating to the mortgaged property, and shall re-transfer it to the plaintiff free from the mortgage and from all incumbrances created by the defendant or any person claiming under him, or, when the defendant claims by derived title, by those under whom he claims, and shall, if necessary, put the plaintiff into possession of the mortgaged property ; and

that, if such payment is not made on or before the day to be fixed by the Court, the plaintiff shall (unless the mortgage be simple or usufructuary) be absolutely debarred of all right to redeem the property, or (unless the mortgage be by conditional sale) that the property be sold.

93. If payment is made of such amount and of such subsequent costs as are mentioned in section 94, the plaintiff shall, if necessary, be put into possession of the mortgaged property.

In case of redemption, possession.

If such payment is not so made, the defendant may (unless the mortgage is simple or usufructuary) apply to the Court for an order that the plaintiff and all persons claiming through or under him be debarred absolutely of all right to redeem, or (unless the mortgage is by conditional sale) for an order that the mortgaged property be sold.

In default, foreclosure or sale.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 94-96.)

If he applies for the former order, the Court shall pass an order that the plaintiff and all persons claiming through or under him be absolutely debarred of all right to redeem the mortgaged property, and may, if necessary, deliver possession of the property to the defendant.

If he applies for the latter order, the Court shall pass an order that such property or a sufficient part thereof be sold, and that the proceeds of the sale (after defraying thereout the expenses of the sale) be paid into Court and applied in payment of what is found due to the defendant, and that the balance be paid to the plaintiff or other persons entitled to receive the same.

On the passing of any order under this section the plaintiff's right to redeem and the security shall, as regards the property affected by the order, both be extinguished:

Power to
enlarge time.

Provided that the Court may, upon good cause shown, and upon such terms, if any, as it thinks fit, from time to time postpone the day fixed under section 92 for payment to the defendant.

Costs of
mortgagee
subsequent
to decree.

94. In finally adjusting the amount to be paid to a mortgagee in case of a redemption or a sale by the Court under this chapter, the Court shall, unless the conduct of the mortgagee has been such as to disentitle him to costs, add to the mortgage-money such costs of suit as have been properly incurred by him since the decree for foreclosure, redemption or sale up to the time of actual payment.

Charge of
one of several
co-mort-
gagors who
redeems.

95. Where one of several mortgagors redeems the mortgaged property and obtains possession thereof, he has a charge on the share of each of the other co-mortgagors in the property for his proportion of the expenses properly incurred in so redeeming and obtaining possession.

Sale of property subject to prior Mortgage.

Sale of pro-
perty sub-

96. If any property the sale of which is directed under this chapter is subject to a prior mortgage,
the

1882.]

Transfer of Property.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 97-98.)

the Court may, with the consent of the prior mortgagee, order that the property be sold free from the same, giving to such prior mortgagee the same interest in the proceeds of the sale as he had in the property sold.

jest to prior mortgage.

97. Such proceeds shall be brought into Court and applied as follows:—

Application of proceeds.

first, in payment of all expenses incident to the sale or properly incurred in any attempted sale;

secondly, if the property has been sold free from any prior mortgage, in payment of whatever is due on account of such mortgage;

thirdly, in payment of all interest due on account of the mortgage in consequence whereof the sale was directed, and of the costs of the suit in which the decree directing the sale was made;

fourthly, in payment of the principal money due on account of that mortgage; and

lastly, the residue (if any) shall be paid to the person proving himself to be interested in the property sold, or, if there be more such persons than one, then to such persons according to their respective interests therein or upon their joint receipt.

Nothing in this section or in section 96 shall be deemed to affect the powers conferred by section 57.

Anomalous Mortgages.

98. In the case of a mortgage not being a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage or an English mortgage, or a combination of the first and third, or the second and third, of such forms, the rights and liabilities of the parties shall be determined by their contract as evidenced in

Mortgage not described in section 58, clauses (b), (c), (d) and (e).

the

(Chapter IV.—Of Mortgages of Immovable Property and Charges.—Sections 99-101.)

the mortgage-deed, and, so far as such contract does not extend, by local usage.

Attachment of Mortgaged Property.

Attachment
of mortgaged
property.

99. Where a mortgagee in execution of a decree for the satisfaction of any claim, whether arising under the mortgage or not, attaches the mortgaged property, he shall not be entitled to bring such property to sale otherwise than by instituting a suit under section 67, and he may institute such suit notwithstanding anything contained in the Code of Civil Procedure, section 43.¹

XIV of 1882

Charges.

Charges.

100. Where immoveable property of one person is by act of parties or operation of law made security for the payment of money to another, and the transaction does not amount to a mortgage, the latter person is said to have a charge on the property; and all the provisions hereinbefore contained as to a mortgagor shall, so far as may be, apply to the owner of such property, and the provisions of sections 81 and 82 and all the provisions hereinbefore contained as to a mortgagee instituting a suit for the sale of the mortgaged property shall, so far as may be, apply to the person having such charge.

Nothing in this section applies to the charge of a trustee on the trust-property for expenses properly incurred in the execution of his trust.

Extinguish-
ment of
charges.

101. Where the owner of a charge or other incumbrance on immoveable property is or becomes absolutely entitled to that property, the charge or incumbrance shall be extinguished, unless he declares, by express words or necessary implication, that it shall continue to subsist, or such continuance would be for his benefit.

Notice

¹ See now s. 43 of Act XIV of 1882, printed, General Acts, Ed. 1898, Vol. IV.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Sections 102-103.)

Notice and Tender.

102. Where the person on or to whom any notice or tender is to be served or made under this chapter does not reside in the district in which the mortgaged property or some part thereof is situate, service or tender on or to an agent holding a general power-of-attorney from such person or otherwise duly authorized to accept such service or tender shall be deemed sufficient.

Service or tender on or to agent.

Where the person or agent on whom such notice should be served cannot be found in the said district, or is unknown to the person required to serve the notice, the latter person may apply to any Court in which a suit might be brought for redemption of the mortgaged property, and such Court shall direct in what manner such notice shall be served, and any notice served in compliance with such direction shall be deemed sufficient.

Where the person or agent to whom such tender should be made cannot be found within the said district, or is unknown to the person desiring to make the tender, the latter person may deposit in such Court as last aforesaid the amount sought to be tendered, and such deposit shall have the effect of a tender of such amount.

103. Where, under the provisions of this chapter, a notice is to be served on or by, or a tender or deposit made or accepted or taken out of Court by, any person incompetent to contract, such notice may be served, or tender or deposit made, accepted or taken, by the legal curator of the property of such person; but where there is no such curator, and it is requisite or desirable in the interests of such person that a notice should be served or a tender or deposit made under the provisions of this chapter, application may be made to any Court in which a suit might be brought for the redemption of the mortgage to appoint a guardian

Notice, etc., to or by person incompetent to contract.

(Chapter IV.—Of Mortgages of Immoveable Property and Charges.—Section 104. Chapter V.—Of Leases of Immoveable Property.—Section 105.)

guardian *ad litem* for the purpose of serving or receiving service of such notice, or making or accepting such tender, or making or taking out of Court such deposit, and for the performance of all consequential acts which could or ought to be done by such person if he were competent to contract¹; and the provisions of Chapter XXXI of the Code of Civil Procedure² shall, so far as may be, apply to such application and to the parties thereto and to the guardian appointed thereunder.

XIV of 1882.

Power to
make rules.

104. The High Court may, from time to time, make rules consistent with this Act for carrying out, in itself and in the Courts of Civil Judicature subject to its superintendence, the provisions contained in this chapter.

CHAPTER V.

OF LEASES OF IMMOVEABLE PROPERTY.

Lease
defined.

105. A lease of immoveable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms.

Lessor,
lessee,
premium
and rent
defined.

The transferor is called the lessor, the transferee is called the lessee, the price is called the premium, and the money, share, service or other thing to be so rendered is called the rent.

106. In

¹ As to persons competent to contract, see ss. 11 & 12 of the Indian Contract Act, 1872 (IX of 1872), General Acts, Vol. II, Ed. 1898. See also now the revised edition of this Act, as modified up to 1st September, 1899.

² See now Chapter XXXI of Act XIV of 1882, printed, General Acts, Ed. 1898, Vol. IV.

106. In the absence of a contract or local law or usage to the contrary, a lease of immoveable property for agricultural or manufacturing purposes shall be deemed to be a lease from year to year, terminable, on the part of either lessor or lessee, by six months' notice expiring with the end of a year of the tenancy; and a lease of immoveable property for any other purpose shall be deemed to be a lease from month to month, terminable, on the part of either lessor or lessee, by fifteen days' notice expiring with the end of a month of the tenancy.

Duration of certain leases in absence of written contract or local usage.

Every notice under this section must be in writing, signed by or on behalf of the person giving it, and tendered or delivered either personally to the party who is intended to be bound by it, or to one of his family or servants at his residence, or (if such tender or delivery is not practicable) affixed to a conspicuous part of the property.

107. A lease of immoveable property from year to year, or for any term exceeding one year, or reserving a yearly rent, can be made only by a registered instrument.

Leases how made.

All other leases of immoveable property may be made either by an instrument or by oral agreement.

108. In the absence of a contract or local usage to the contrary, the lessor and the lessee of immoveable property, as against one another, respectively, possess the rights and are subject to the liabilities mentioned in the rules next following, or such of them as are applicable to the property leased :—

Rights and liabilities of lessor and lessee.

A.—Rights and Liabilities of the Lessor.

(a) The lessor is bound to disclose to the lessee any material defect in the property, with reference to
its

¹ As to limitation to the territorial operation of s. 107, see s. 1, *supra*. Section 107 extends to every cantonment in British India—see the Cantonments Act, 1889 (XIII of 1889), s. 32 (1), printed, General Acts, Vol. V, Ed. 1898, p. 335.

*(Chapter V.—Of Leases of Immoveable Property.—
Section 108.)*

its intended use, of which the former is and the latter is not aware, and which the latter could not with ordinary care discover :

(b) the lessor is bound on the lessee's request to put him in possession of the property :

(c) the lessor shall be deemed to contract with the lessee that, if the latter pays the rent reserved by the lease and performs the contracts binding on the lessee, he may hold the property during the time limited by the lease without interruption.

The benefit of such contract shall be annexed to and go with the lessee's interest as such, and may be enforced by every person in whom that interest is for the whole or any part thereof from time to time vested.

B.—Rights and Liabilities of the Lessee.

(d) If during the continuance of the lease any accession is made to the property, such accession (subject to the law relating to alluvion for the time being in force) shall be deemed to be comprised in the lease :

(e) if by fire, tempest or flood, or violence of an army or of a mob, or other irresistible force, any material part of the property be wholly destroyed or rendered substantially and permanently unfit for the purposes for which it was let, the lease shall, at the option of the lessee, be void :

Provided that, if the injury be occasioned by the wrongful act or default of the lessee, he shall not be entitled to avail himself of the benefit of this provision :

(f) if the lessor neglects to make, within a reasonable time after notice, any repairs which he is bound to make to the property, the lessee may make the same himself, and deduct the expense of such

repairs

*(Chapter V.—Of Leases of Immoveable Property.—
Section 108.)*

repairs with interest from the rent, or otherwise recover it from the lessor :

(g) if the lessor neglects to make any payment which he is bound to make, and which, if not made by him, is recoverable from the lessee or against the property, the lessee may make such payment himself, and deduct it with interest from the rent, or otherwise recover it from the lessor :

(h) the lessee may remove, at any time during the continuance of the lease, all things which he has attached to the earth : provided he leaves the property in the state in which he received it :

(i) when a lease of uncertain duration determines by any means except the fault of the lessee, he or his legal representative is entitled to all the crops planted or sown by the lessee and growing upon the property when the lease determines, and to free ingress and egress to gather and carry them :

(j) the lessee may transfer absolutely or by way of mortgage or sub-lease the whole or any part of his interest in the property, and any transferee of such interest or part may again transfer it. The lessee shall not, by reason only of such transfer, cease to be subject to any of the liabilities attaching to the lease :

nothing in this clause shall be deemed to authorise a tenant having an untransferable right of occupancy, the farmer of an estate in respect of which default has been made in paying revenue, or the lessee of an estate under the management of a Court of Wards, to assign his interest as such tenant, farmer or lessee :

(k) the lessee is bound to disclose to the lessor any fact as to the nature or extent of the interest which the lessee is about to take, of which the lessee is, and the lessor is not, aware, and which materially increases the value of such interest ;

(l) the

*(Chapter V.—Of Leases of Immoveable Property.—
Section 108.)*

(l) the lessee is bound to pay or tender, at the proper time and place, the premium or rent to the lessor or his agent in this behalf :

(m) the lessee is bound to keep, and on the termination of the lease to restore, the property in as good condition as it was in at the time when he was put in possession, subject only to the changes caused by reasonable wear and tear or irresistible force, and to allow the lessor and his agents, at all reasonable times during the term, to enter upon the property and inspect the condition thereof and give or leave notice of any defect in such condition ; and, when such defect has been caused by any act or default on the part of the lessee, his servants or agents, he is bound to make it good within three months after such notice has been given or left :

(n) if the lessee becomes aware of any proceeding to recover the property or any part thereof, or of any encroachment made upon, or any interference with, the lessor's rights concerning such property, he is bound to give, with reasonable diligence, notice thereof to the lessor :

(o) the lessee may use the property and its products (if any) as a person of ordinary prudence would use them if they were his own ; but he must not use, or permit another to use, the property for a purpose other than that for which it was leased, or fell timber, pull down or damage buildings, work mines or quarries not open when the lease was granted, or commit any other act which is destructive or permanently injurious thereto :

(p) he must not, without the lessor's consent, erect on the property any permanent structure, except for agricultural purposes :

(q) on the determination of the lease, the lessee is bound to put the lessor into possession of the property.

*(Chapter V.—Of Leases of Immoveable Property.—
Sections 109-110.)*

109. If the lessor transfers the property leased, or any part thereof, or any part of his interest therein, the transferee, in the absence of a contract to the contrary, shall possess all the rights, and, if the lessee so elects, be subject to all the liabilities, of the lessor as to the property or part transferred so long as he is the owner of it; but the lessor shall not, by reason only of such transfer, cease to be subject to any of the liabilities imposed upon him by the lease, unless the lessee elects to treat the transferee as the person liable to him :

Rights of
lessor's trans-
feree.

Provided that the transferee is not entitled to arrears of rent due before the transfer, and that, if the lessee, not having reason to believe that such transfer has been made, pays rent to the lessor, the lessee shall not be liable to pay such rent over again to the transferee.

The lessor, the transferee and the lessee may determine what proportion of the premium or rent reserved by the lease is payable in respect of the part so transferred, and, in case they disagree, such determination may be made by any Court having jurisdiction to entertain a suit for the possession of the property leased.

110. Where the time limited by a lease of immoveable property is expressed as commencing from a particular day, in computing that time such day shall be excluded. Where no day of commencement is named, the time so limited begins from the making of the lease.

Exclusion of
day on which
term com-
mences.

Where the time so limited is a year or a number of years, in the absence of an express agreement to the contrary, the lease shall last during the whole anniversary of the day from which such time commences.

Duration of
lease for a
year.

Where the time so limited is expressed to be terminable before its expiration, and the lease omits to

Option to
determine
lease.

mention

(Chapter V.—Of Leases of Immoveable Property.—
Section 111.)

mention at whose option it is so terminable, the lessee, and not the lessor, shall have such option.

Determina-
tion of lease.

111. A lease of immoveable property determines—

- (a) by efflux of the time limited thereby :
- (b) where such time is limited conditionally on the happening of some event—by the happening of such event :
- (c) where the interest of the lessor in the property terminates on, or his power to dispose of the same extends only to, the happening of any event—by the happening of such event :
- (d) in case the interests of the lessee and the lessor in the whole of the property become vested at the same time in one person in the same right :
- (e) by express surrender ; that is to say, in case the lessee yields up his interest under the lease to the lessor, by mutual agreement between them :
- (f) by implied surrender :
- (g) by forfeiture ; that is to say, (1) in case the lessee breaks an express condition which provides that on breach thereof the lessor may re-enter or the lease shall become void ; or (2) in case the lessee renounces his character as such by setting up a title in a third person or by claiming title in himself ; and in either case the lessor or his transferee does some act showing his intention to determine the lease :
- (h) on the expiration of a notice to determine the lease, or to quit, or of intention to quit, the property leased, duly given by one party to the other.

Illustration

*(Chapter V.—Of Leases of Immoveable Property.—
Sections 112-114.)**Illustration to clause (f).*

A lessee accepts from his lessor a new lease of the property leased, to take effect during the continuance of the existing lease. This is an implied surrender of the former lease, and such lease determines thereupon.

112. A forfeiture under section 111, clause (g), is waived by acceptance of rent which has become due since the forfeiture, or by distress for such rent, or by any other act on the part of the lessor showing an intention to treat the lease as subsisting :

Waiver of forfeiture.

Provided that the lessor is aware that the forfeiture has been incurred :

Provided also that, where rent is accepted after the institution of a suit to eject the lessee on the ground of forfeiture, such acceptance is not a waiver.

113. A notice given under section 111, clause (h), is waived, with the express or implied consent of the person to whom it is given, by any act on the part of the person giving it showing an intention to treat the lease as subsisting.

Waiver of notice to quit.

Illustrations.

(a) A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires. B tenders, and A accepts, rent which has become due in respect of the property since the expiration of the notice. The notice is waived.

(b) A, the lessor, gives B, the lessee, notice to quit the property leased. The notice expires, and B remains in possession. A gives to B as lessee a second notice to quit. The first notice is waived.

114. Where a lease of immoveable property has determined by forfeiture for non-payment of rent, and the lessor sues to eject the lessee, if, at the hearing of the suit, the lessee pays or tenders to the lessor the rent in arrear, together with interest thereon and his full costs of the suit, or gives such security as the Court thinks sufficient for making such payment within fifteen days, the Court may, in lieu of making a decree

Relief against forfeiture for non-payment of rent.

*(Chapter V.—Of Leases of Immoveable Property.—
Sections 115-116.)*

decree for ejectment, pass an order relieving the lessee against the forfeiture; and thereupon the lessee shall hold the property leased as if the forfeiture had not occurred.

Effect of
surrender and
forfeiture on
under-leases.

115. The surrender, express or implied, of a lease of immoveable property does not prejudice an under-lease of the property or any part thereof previously granted by the lessee, on terms and conditions substantially the same (except as regards the amount of rent) as those of the original lease; but, unless the surrender is made for the purpose of obtaining a new lease, the rent payable by, and the contracts binding on, the under-lessee shall be respectively payable to and enforceable by the lessor.

The forfeiture of such a lease annuls all such under-leases, except where such forfeiture has been procured by the lessor in fraud of the under-lessees, or relief against the forfeiture is granted under section 114.

Effect of
holding over.

116. If a lessee or under-lessee of property remains in possession thereof after the determination of the lease granted to the lessee, and the lessor or his legal representative accepts rent from the lessee or under-lessee, or otherwise assents to his continuing in possession, the lease is, in the absence of an agreement to the contrary, renewed from year to year, or from month to month, according to the purpose for which the property is leased, as specified in section 106.

Illustrations.

(a) A lets a house to B for five years. B underlets the house to C at a monthly rent of Rs. 100. The five years expire, but C continues in possession of the house and pays the rent to A. C's lease is renewed from month to month.

(b) A lets a farm to B for the life of C. C dies, but B continues in possession with A's assent. B's lease is renewed from year to year.

117. None

(*Chapter V.—Of Leases of Immoveable Property.—*
Section 117. Chapter VI.—Of Exchanges.—
Sections 118-121.)

117. None of the provisions of this chapter apply to leases for agricultural purposes, except in so far as the Local Government, with the previous sanction of the Governor General in Council, may by notification published in the local official Gazette declare all or any of such provisions to be so applicable, together with, or subject to, those of the local law, if any, for the time being in force.

Exemption of
leases for
agricultural
purposes.

Such notification shall not take effect until the expiry of six months from the date of its publication.

CHAPTER VI.

OF EXCHANGES.

118. When two persons mutually transfer the ownership of one thing for the ownership of another, neither thing or both things being money only, the transaction is called an "exchange."

"Exchange"
defined.

A transfer of property in completion of an exchange can be made only in manner provided for the transfer of such property by sale.

119. In the absence of a contract to the contrary, the party deprived of the thing or part thereof he has received in exchange, by reason of any defect in the title of the other party, is entitled at his option to compensation or to the return of the thing transferred by him.

Right of
party de-
prived of
thing re-
ceived in
exchange.

120. Save as otherwise provided in this chapter, each party has the rights and is subject to the liabilities of a seller as to that which he gives, and has the rights and is subject to the liabilities of a buyer as to that which he takes.

Rights and
liabilities of
parties.

121. On an exchange of money, each party thereby warrants the genuineness of the money given by him.

Exchange of
money.

CHAPTER VII.

Transfer of Property. [ACT IV
(Chapter VII.—Of Gifts.—Sections 122-126.)

CHAPTER VII.

OF GIFTS.

“ Gift ” de-
fined.

122. “ Gift ” is the transfer of certain existing moveable or immoveable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee.

Acceptance
when to be
made.

Such acceptance must be made during the lifetime of the donor and while he is still capable of giving.

If the donee dies before acceptance, the gift is void.

Transfer
how effected.

¹ 123. For the purpose of making a gift of immoveable property, the transfer must be effected by a registered instrument signed by or on behalf of the donor, and attested by at least two witnesses.

For the purpose of making a gift of moveable property, the transfer may be effected either by a registered instrument signed as aforesaid or by delivery.

Such delivery may be made in the same way as goods sold may be delivered.

Gift of
existing and
future pro-
perty.

124. A gift comprising both existing and future property is void as to the latter.

Gift to
several, of
whom one
does not
accept.

125. A gift of a thing to two or more donees, of whom one does not accept it, is void as to the interest which he would have taken had he accepted.

When gift
may be
suspended
or revoked.

126. The donor and donee may agree that on the happening of any specified event which does not depend on the will of the donor a gift shall be suspended or revoked ; but a gift which the parties agree shall

¹ As to limitation to the territorial operation of s. 123, see s. 1, *supra*. Section 123 extends to every cantonment in British India—see the Cantonments Act, 1889 (XIII of 1889), s. 32 (1). Printed, General Acts, Vol. V, Ed. 1898.

shall be revocable wholly or in part, at the mere will of the donor is void wholly or in part, as the case may be.

A gift may also be revoked in any of the cases (save want or failure of consideration) in which, if it were a contract, it might be rescinded.

Save as aforesaid, a gift cannot be revoked.

Nothing contained in this section shall be deemed to affect the rights of transferees for consideration without notice.

Illustrations.

(a) A gives a field to B, reserving to himself, with B's assent, the right to take back the field in case B and his descendants die before A. B dies without descendants in A's lifetime. A may take back the field.

(b) A gives a lakh of rupees to B, reserving to himself, with B's assent, the right to take back at pleasure Rs. 10,000 out of the lakh. The gift holds good as to Rs. 90,000, but is void as to Rs. 10,000, which continue to belong to A.

127. Where a gift is in the form of a single transfer to the same person of several things of which one is, and the others are not, burdened by an obligation, the donee can take nothing by the gift unless he accepts it fully. Onerous gifts.

Where a gift is in the form of two or more separate and independent transfers to the same person of several things, the donee is at liberty to accept one of them and refuse the others, although the former may be beneficial and the latter onerous.

A donee not competent to contract and accepting property burdened by any obligation is not bound by his acceptance. But if, after becoming competent to contract and being aware of the obligation, he retains the property given, he becomes so bound. Onerous gift to disqualified person.

Illustrations.

(a) A has shares in X, a prosperous joint stock company, and also shares in Y, a joint stock company in difficulties.

Heavy

Transfer of Property.

[ACT IV

(Chapter VII.—Of Gifts.—Sections 128-129. Chapter VIII.—Of Transfers of Actionable Claims.—Section 130.)

Heavy calls are expected in respect of the shares in Y. A gives B all his shares in joint stock companies. B refuses to accept the shares in Y. He cannot take the shares in X.

(b) A having a lease for a term of years of a house at a rent which he and his representatives are bound to pay during the term, and which is more than the house can be let for, gives to B the lease, and also, as a separate and independent transaction, a sum of money. B refuses to accept the lease. He does not by this refusal forfeit the money.

Universal
donee.

128. Subject to the provisions of section 127, where a gift consists of the donor's whole property, the donee is personally liable for all the debts due by the donor at the time of the gift to the extent of the property comprised therein.

Saving of
donations
mortis causa
and Muham-
madan law.

129. Nothing in this chapter relates to gifts of moveable property made in contemplation of death, or shall be deemed to affect any rule of Muhammadan law, or, save as provided by section 123, any rule of Hindu or Buddhist law.

CHAPTER VIII.¹

OF TRANSFERS OF ACTIONABLE CLAIMS.

Transfer of
actionable
claim.

130. (1) The transfer of an actionable claim shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorized agent, and shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not:

Provided that every dealing with the debt or other actionable claim by the debtor or other person from or against whom the transferor would, but for such instrument of transfer as aforesaid, have been entitled to recover or enforce such debt or other
actionable

¹ This Chapter was substituted for the original Chapter VIII, by the Transfer of Property Act, 1900 (II of 1900).

actionable claim, shall (save where the debtor or other person is a party to the transfer or has received express notice thereof as hereinafter provided) be valid as against such transfer.

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor's consent to such suit or proceedings and without making him a party thereto.

Exception.—Nothing in this section applies to the transfer of a marine or fire policy of insurance.

Illustrations.

(i) A owes money to B, who transfers the debt to C. B then demands the debt from A, who, not having received notice of the transfer, as prescribed in section 131, pays B. The payment is valid, and C cannot sue A for the debt.

(ii) A effects a policy on his own life with an Insurance Company and assigns it to a Bank for securing the payment of an existing or future debt. If A dies, the Bank is entitled to receive the amount of the policy and to sue on it without the concurrence of A's executor, subject to the proviso in sub-section (1) of section 130 and to the provisions of section 132.

131. Every notice of transfer of an actionable claim shall be in writing, signed by the transferor or his agent duly authorized in this behalf, or, in case the transferor refuses to sign, by the transferee or his agent, and shall state the name and address of the transferee.

Notice to be
in writing,
signed.

132. The transferee of an actionable claim shall take it subject to all the liabilities and equities to which the transferor was subject in respect thereof at the date of the transfer.

Liability of
transferee of
actionable
claim.

Illustrations.

(i) A transfers to C a debt due to him by B, A being then indebted to B. C sues B for the debt due by B to A. In such suit B is entitled to set off the debt due by A to him, although C was unaware of it at the date of such transfer.

(ii) A

*(Chapter VIII.—Of Transfers of Actionable Claims.
—Sections 133-137.)*

(ii) A executed a bond in favour of B under circumstances entitling the former to have it delivered up and cancelled. B assigns the bond to C for value and without notice of such circumstances. C cannot enforce the bond against A.

Warranty of
solvency of
debtor.

133. Where the transferor of a debt warrants the solvency of the debtor, the warranty, in the absence of a contract to the contrary, applies only to his solvency at the time of the transfer, and is limited, where the transfer is made for consideration, to the amount or value of such consideration.

Mortgaged
debt.

134. Where a debt is transferred for the purpose of securing an existing or future debt, the debt so transferred, if received by the transferor or recovered by the transferee, is applicable, first, in payment of the costs of such recovery: secondly, in or towards satisfaction of the amount for the time being secured by the transfer; and the residue, if any, belongs to the transferor or other person entitled to receive the same.

Assignment
of rights
under marine
or fire policy
of insurance.

135. Every assignee, by endorsement or other writing, of a policy of marine insurance or of a policy of insurance against fire, in whom the property in the subject insured shall be absolutely vested at the date of the assignment, shall have transferred and vested in him all rights of suit as if the contract contained in the policy had been made with himself.

Incapacity
of officers
connected
with Courts
of Justice

136. No Judge, legal practitioner, or officer connected with any Court of Justice shall buy or traffic in, or stipulate for, or agree to receive, any share of, or interest in, any actionable claim, and no Court of Justice shall enforce, at his instance, or at the instance of any person claiming by or through him, any actionable claim so dealt with by him as aforesaid.

Saving of
negotiable
instruments,
etc.

137. Nothing in the foregoing sections of this chapter applies to stocks, shares or debentures, or to instruments which are for the time being, by law or custom, negotiable, or to any mercantile document of title to goods.

Explanation.

1882.]

*Transfer of Property.**(Chapter VIII.—Of Transfers of Actionable Claims.
The Schedule.)*

Explanation.—The expression “mercantile document of title to goods” includes a bill of lading, dock-warrant, warehouse-keeper’s certificate, railway receipt, warrant or order for the delivery of goods, and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented.

THE SCHEDULE.

Year and chapter.	Subject.	Extent of repeal.
(a) STATUTES.		
27 Hen. VIII. c. 10.	Uses	The whole.
13 Eliz., c. 5	Fraudulent conveyances	The whole.
27 Eliz., c. 4	Fraudulent conveyances	The whole.
4 Wm. and Mary, c. 16.	Clandestine mortgages	The whole.
(b) ACTS OF THE GOVERNOR GENERAL IN COUNCIL.		
IX of 1842	Lease and release	The whole.
XXXI of 1854	Modes of conveying land	Section 17.
XI of 1855	Mesne profits and improvements.	Section 1; in the title, the words “to mesne profits and”, and in the preamble “to limit the liability for mesne profits and”.

XXVII of 1866

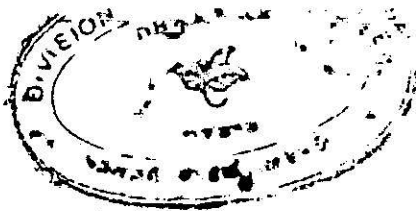
Transfer of Property. [ACT IV, 1882.]
(The Schedule.)

THE SCHEDULE—*concluded.*

Year and chapter.	Subject.	Extent of repeal.
XXVII of 1866 .	Indian Trustee Act . .	Section 31. .
IV of 1872 . .	Punjab Laws Act . .	So far as it relates to Bengal Regulations I of 1798 and XVII of 1806.
XX of 1875 .	Central Provinces Laws Act	So far as it relates to Bengal Regulations I of 1798 and XVII of 1806.
XVIII of 1876 .	Oudh Laws Act . .	So far as it relates to Bengal Regulation XVII of 1806.
I of 1877 . .	Specific Relief . .	In sections 35 and 36, the words "in writing."

(c) REGULATIONS.

Bengal Regulation I of 1798.	Conditional sales . .	The whole Regulation.
Bengal Regulation XVII of 1806.	Redemption	The whole Regulation.
Bombay Regulation V of 1827.	Acknowledgment of debts; Interest; Mortgagees in possession.	Section 15.



341-10-8-96

ACT NO. XI OF 1896.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 13th March, 1896.)

An Act to amend the Legal Practitioners Act, 1879.

XVIII of
1879.

WHEREAS it is expedient to amend the Legal Practitioners Act, 1879; It is hereby enacted as follows :—

1. To section 3 of the said Act the following shall be added, namely :—

Addition to
section 3,
Act XVIII,
1879.
“Tout.”

“ ‘Tout’ means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner, or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration.”

2. For section 13 of the said Act the following shall be substituted, namely :—

Substitution
of new
section for
section 13,
Act XVIII,
1879.
Suspension
and dismissal
of Pleaders
and Mukhtars
guilty of
unprofessional
conduct.

“ 13. The High Court may also, after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtár holding a certificate as aforesaid—

(a) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure, or some servant, relative or friend authorized by the party to give such instructions, or

(b) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

(c) who

[Price one anna and six pies.]

XIV of 1882.

- (c) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtár, or
- (d) who, directly or indirectly, procures or attempts to procure the employment of himself as such Pleader or Mukhtár through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or
- (e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or
- (f) for any other reasonable cause.

3. For section 22 of the said Act the following shall be substituted, namely :—

Substitution
of new
section for
section 22,
Act XVIII,
1879.
Suspension
and dismissal
of Revenue-
Agents
guilty of
unprofession-
al conduct.

“22. The Chief Controlling Revenue-Authority may also, after such inquiry as it thinks fit, suspend or dismiss any Revenue-Agent holding a certificate as aforesaid—

- (a) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or
- (b) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue-Agent, or
- (c) who, directly or indirectly, procures or attempts to procure the employment of himself as such Revenue-Agent through, or by the intervention of, any person to whom any remuneration for obtaining such employment

employment has been given by him, or
agreed or promised to be so given, or

(d) who accepts any employment in any legal
business through a person who has been
proclaimed as a tout under section 36, or

(e) for any other reasonable cause.

4. For section 36 of the said Act the following
shall be substituted, namely :—

Substitution
of new
section for
section 36,
Act XVIII,
1879.

“36. (1) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue-officer, not being below the rank of a Collector of a District, and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, by evidence of general repute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

Power to
frame and
publish lists
of touts.

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(3) A copy of every such list shall be kept hung up in every Court to which the same relates.

(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (e), and section 22, clause (d).”

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

No 446
10/9/97
✓

THE LEGAL PRACTITIONERS ACT, 1879,
(ACT XVIII OF 1879.)

AS MODIFIED UP TO THE 1ST MAY, 1896.

CALCUTTA:
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1896.

Price Seven Annas and Six Pies.

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STATEMENT OF AMENDMENTS.

AMENDED Act IX of 1884;
Act XI of 1896.

The following changes have been made in reprinting the Act:—

- (1) Repealed matter has been omitted, explanatory notes being inserted;
- (2) amendments have been inserted in their proper places, with explanatory footnotes;
- (3) references to repealed Acts have been altered as directed by the enactment which effects the repeal, explanatory footnotes being inserted;
- (4) some further footnotes have been added for convenience of reference;
- (5) the number and year of Acts referred to in the text have been noted in the inner margin, except where both appear in the text;
- (6) section-numbers occurring in the text have been printed in figures instead of in words; and
- (7) the headings to the pages have been amplified.

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THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—VALUE OF STAMPS FOR
CERTIFICATES.

ACT No. XVIII OF 1879^[a].

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th October, 1879.)

An Act to consolidate and amend the law relating to Legal Practitioners.

[As modified up to the 1st May, 1896.]

WHEREAS it is expedient to consolidate and amend the law relating to Legal Practitioners in the Lower Provinces of Bengal, the North-Western Provinces, the Punjab, Oudh, the Central Provinces and Assam, and to empower each of the Local Governments of the rest of British India to extend to the territories administered by it such portions of this Act as such Government may think fit; It is hereby enacted as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called “ The Legal Practitioners Act, 1879 ” : and shall come into force on the first day of January, 1880.

Short title.

Commencement.

This section and section 2 extend to the whole of British India.

Local extent.

The rest of this Act extends, in the first instance, only to the territories respectively administered by the Lieutenant-Governors of the Lower Provinces of Bengal,

[^a] Act XVIII of 1879 has been declared in force in Angul and the Khondmals by Reg. I of 1894, s. 3, and by notification under the Scheduled Districts Act, 1874, in the Districts of Hazaribagh, Lohardugga and Manbhum and Parganas Dhalbhum and the Kolhan in the District of Singhbhum—see Gazette of India, 1881, Part I, p. 504.

Legal Practitioners. [ACT XVIII
(Chapter I.—Preliminary.—Sections 2-3.)

Bengal, the North-Western Provinces and the Punjab, and the Chief Commissioners of Oudh, the Central Provinces and Assam. But any other Local Government may from time to time, by notification in the official Gazette, extend [*] all or any of the provisions of the rest of this Act to the whole or any part of the territories under its administration.

Repeal of enactments.

2. On and from the first day of January, 1880, the enactments mentioned in the first schedule hereto annexed shall be repealed to the extent specified therein.

Saving of rules, etc.

All rules and appointments made, penalties prescribed, fees fixed, persons admitted, names enrolled, certificates issued, sanctions given and orders passed under any enactment hereby repealed shall be deemed to be respectively made, prescribed, fixed, admitted, enrolled, issued, given and passed under this Act.

References to repealed enactments.

All references made to any enactment hereby repealed, in any Act or Regulation passed, or notification published, shall be read as if made to the corresponding provisions of this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

“Judge” means the presiding judicial officer in every Civil and Criminal Court, by whatever title he is designated :

“Subordinate Court” means all Courts subordinate to the High Court, including Courts of Small

Causes

[*] Under this power, the Act has been extended, subject to certain omissions, and so far only as it relates to Judicial Courts, Civil and Criminal, to the Madras Presidency, except the Scheduled Districts, from 1st April, 1882—see Fort St. George Gazette, 1881, Part I, pp. 491 and 707. Sections 3 and 4 of the Act have been extended to the Regulation Districts of the Bombay Presidency—see Bombay Government Gazette, 1885, Part I, p. 290.

Chapter I, section 40, Schedule II, and so much of Chapters III, V, VI and VII as relates to Pleaders, have been extended to Coorg—see Mysore Gazette, 1879, Part I, p. 355.

1879.]

Legal Practitioners.

*(Chapter II.—Of Advocates, Vakils and Attorneys.
—Section 4.)*

Causes established under Act No. XV of 1882 [^a] or Act No. IX of 1887 [^b]:

“Revenue-office” includes all Courts (other than Civil Courts) trying suits under any Act for the time being in force relating to landholders and their tenants or agents:

“legal practitioner” means an Advocate, Vakíl or Attorney of any High Court, a Pleader, Mukhtár or Revenue-agent:

[^c] “tout” means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner, or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration.

CHAPTER II.

OF ADVOCATES, VAKÍLS AND ATTORNEYS.

4. Every person now or hereafter entered as an Advocate or Vakíl on the roll of any High Court under the Letters Patent constituting such Court, or [^d] under section 41 of this Act [^d], shall be entitled to practise in all the Courts subordinate to the Court on the roll of which he is entered, and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such Court, subject, nevertheless, to the rules in force relating to the language in which the Court or office is

[^a] The reference to Act IX of 1850 is altered in accordance with Act XV of 1882, s. 2. (For Act XV of 1882 see the revised edition, as modified up to 1st February, 1895, published by the Legislative Department.)

[^b] The reference to Act XI of 1865 is altered in accordance with Act IX of 1887, s. 2 (2), (3). (For Act IX of 1887 see the revised edition, as modified up to 1st December, 1894, published by the Legislative Department.)

[^c] This definition was added by Act XI of 1893, s. 1.

[^d] These words and figures were substituted for the original words by Act IX of 1884, s. 2.

(Chapter II.—Of Advocates, Vakils and Attorneys.—
Section 5. Chapter III.—Of Pleaders and
Mukhtárs.—Section 6.)

is to be addressed by Pleaders or Revenue-agents; and any person so entered who ordinarily practises in the Court on the roll of which he is entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court on whose roll he is not entered, or, with the permission of the Court, in any High Court on whose roll he is not entered, and in any Revenue-office:

Provided that no such Vakíl shall be entitled to practise under this section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction in a Presidency-town.

Attorneys of
High Court.

5. Every person now or hereafter entered as an Attorney on the roll of any High Court shall be entitled to practise in all the Courts subordinate to such High Court and in all Revenue-offices situate within the local limits of the appellate jurisdiction of such High Court, and every person so entered who ordinarily practises in the Court on the roll of which he is so entered or some Court subordinate thereto shall, notwithstanding anything herein contained, be entitled, as such, to practise in any Court in British India other than a High Court established by Royal Charter on the roll of which he is not entered and in any Revenue-office.

The High Court of the Province in which an Attorney practises under this section may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of an Attorney so practising.

CHAPTER III.

OF PLEADERS AND MUKHTÁRS.

Power to
make rules

6. The High Court may, from time to time, make
rules

(Chapter III.—Of Pleaders and Mukhtárs.—Section 7.)

rules consistent with this Act as to the following matters (namely) :—

- (a) the qualifications, admission and certificates of proper persons to be Pleaders of the subordinate Courts, and of the Revenue-offices situate within the local limits of its appellate jurisdiction, and, in the case of a High Court not established by Royal Charter, of such Court ;
- (b) the qualifications, admission and certificates of proper persons to be Mukhtárs of the subordinate Courts, and, in the case of a High Court not established by Royal Charter, of such Court ;
- (c) the fees to be paid for the examination and admission of such persons ; and
- (d) the suspension and dismissal of such Pleaders and Mukhtárs.

as to qualifications, etc., of Pleaders and Mukhtárs.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law: Provided that, in the case of rules made by a High Court not established by Royal Charter, such rules have been previously approved by the Local Government.

Publication of rules.

7. On the admission, under section 6, of any person as a Pleader or Mukhtár, the High Court shall cause a certificate, signed by such officer as the Court, from time to time, appoints in this behalf, to be issued to such person, authorising him to practise up to the end of the current year in the Courts, and, in the case of a Pleader, also the Revenue-offices, specified therein.

Certificates to Pleaders and Mukhtárs.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall, subject to any rules consistent with this Act which may, from time to time, be made by the High Court in this behalf, be entitled to have his certificate

renewed

(Chapter III.—Of Pleaders and Mukhtárs.—Sections 8-9.)

renewed by the Judge of the District Court within the local limits of whose jurisdiction he then ordinarily practises, or by such officer as the High Court, from time to time, appoints in this behalf.

On every such renewal, the certificate then in possession of such Pleader or Mukhtár shall be cancelled and retained by such Judge or officer.

Every certificate so renewed shall be signed by such Judge or officer, and shall continue in force up to the end of the current year.

Every Judge or officer so renewing a certificate shall notify such renewal to the High Court.

Pleaders on enrolment may practise in Courts and Revenue-offices.

8. Every Pleader holding a certificate issued under section 7 may apply to be enrolled in any Court or Revenue-office mentioned therein and situate within the local limits of the appellate jurisdiction of the High Court by which he has been admitted; and, subject to such rules consistent with this Act as the High Court or the Chief Controlling Revenue-Authority may, from time to time, make in this behalf, the presiding Judge or officer shall enrol him accordingly; and thereupon he may appear, plead and act in such Court or office and in any Court or Revenue-office subordinate thereto.

Mukhtárs on enrolment may practise in Courts.

9. Every Mukhtár holding a certificate issued under section 7 may apply to be enrolled in any Civil or Criminal Court mentioned therein and situate within the same limits; and, subject to such rules as the High Court may from time to time make in this behalf, the presiding Judge shall enrol him accordingly; and thereupon he may practise as a Mukhtár in any such Civil Court and any Court subordinate thereto, and may (subject to the provisions of the Code of Criminal Procedure, 1882^[a]), appear, plead and

X of 1882.

and

[^a] The reference to Act X of 1872 is altered in accordance with Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

and act in any such Criminal Court and any Court subordinate thereto.

10. Except as provided by this Act or any other enactment for the time being in force, no person shall practise as a Pleader or Mukhtár in any Court not established by Royal Charter unless he holds a certificate issued under section 7 and has been enrolled in such Court or in some Court to which it is subordinate :

No person to practise as Pleader or Mukhtár unless qualified.

Provided that persons who have been admitted as Revenue-agents before the first day of January, 1880, and hold certificates, as such, under this Act in the territories administered by the Lieutenant-Governor of Bengal, may be enrolled in manner provided by section 9 in any Munsif's Court in the said territories, and on being so enrolled may appear, plead and act in such Court in suits under the Bengal Tenancy Act, 1885^[a], or under any other Act for the time being in force regulating the procedure in suits between landholders and their tenants and agents.

Revenue-agents may appear, plead and act in Munsifs' Courts in suits under the Bengal Tenancy Act, 1885.

VIII of 1885.

XIV of 1882.

11. Notwithstanding anything contained in the Code of Civil Procedure^[b], the High Court may, from time to time, make rules declaring what shall be deemed to be the functions, powers and duties of Mukhtárs practising in the subordinate Courts, and, in the case of a High Court not established by Royal Charter, in such Court.

Power to declare functions of Mukhtárs.

12. The High Court may suspend or dismiss any Pleader or Mukhtár holding a certificate issued under section 7 who is convicted of any criminal offence

Suspension and dismissal of Pleaders and Mukhtárs

[^a] Ben. Act VIII of 1869 was repealed in Bengal by Act VIII of 1885, and the reference here has been altered in accordance with s. 2 (3) of the latter. See Bengal Code, Ed. 1889, Vol. I, p. 512.

[^b] This reference to Act X of 1877 should now be read as applying to Act XIV of 1882—see s. 3 of the latter Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

Legal Practitioners. [ACT XVIII
(Chapter III.—Of Pleaders and Mukhtárs.—Section 13.)

convicted of
criminal
offence.

Suspension
and dismissal
of Pleaders
and
Mukhtárs
guilty of un-
professional
conduct.

offence implying a defect of character which unfits him to be a Pleader or Mukhtár, as the case may be.

[^a] 13. The High Court may also, after such inquiry as it thinks fit, suspend or dismiss any Pleader or Mukhtár holding a certificate as aforesaid—

(a) who takes instructions in any case except from the party on whose behalf he is retained, or some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure^[b], or some servant, relative or friend authorised by the party to give such instructions, or

XIV of 1882.

(b) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

(c) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Pleader or Mukhtár, or

(d) who, directly or indirectly, procures or attempts to procure the employment of himself as such Pleader or Mukhtár through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

(e) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or

(f) for any other reasonable cause.

14. If

[^a] This section was substituted for the original section by Act XI of 1896, s. 2.

[^b] For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.

(Chapter III.—Of Pleaders and Mukhtárs.—Section 14.)

14. If any such Pleader or Mukhtár practising in any subordinate Court or in any Revenue-office is charged in such Court or office with taking instructions except as aforesaid, or with any such misconduct as aforesaid, the presiding officer shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Procedure when charge of unprofessional conduct is brought in subordinate Court or Revenue-office.

Such copy and notice shall be served upon the Pleader or Mukhtár at least fifteen days before the day so appointed.

On such day, or on any subsequent day to which the enquiry may be adjourned, the presiding officer shall receive and record all evidence properly produced in support of the charge, or by the Pleader or Mukhtár, and shall proceed to adjudicate on the charge.

If such officer finds the charge established and considers that the Pleader or Mukhtár should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court; and the High Court may acquit, suspend or dismiss the Pleader or Mukhtár.

Any District Judge, or with his sanction any Judge subordinate to him, [*] any Judge of a Court of Small Causes of a Presidency-town [*], any District Magistrate, or with his sanction any Magistrate subordinate to him, and any Revenue-authority not inferior to a Collector, or with the Collector's sanction any Revenue-officer subordinate to him, may, pending the investigation and the orders of the High Court, suspend from practice any Pleader or Mukhtár charged before him or it under this section.

Suspension pending investigation.

Every report made to the High Court under this section shall—

(a) when made by any Civil Judge subordinate to the

[*] These words were inserted by Act IX of 1884, s. 4.

the District Judge; be made through such Judge;

- (b) when made by a Magistrate subordinate to the Magistrate of the District [°], be made through the Magistrate of the District [°] and the Sessions Judge;
- (c) when made by the Magistrate of the District [°], be made through the Sessions Judge;
- (d) when made by any Revenue-officer subordinate to the Chief Controlling Revenue-Authority, be made through such Revenue-authorities as the Chief Controlling Revenue-Authority may, from time to time, direct.

Every such report shall be accompanied by the opinion of each Judge, Magistrate or Revenue-authority through whom or which it is made.

Power to call for record in case of acquittal under section 14.

15. The High Court, in any case in which a Pleader or Mukhtár has been acquitted under section 14 otherwise than by an order of the High Court, may call for the record and pass such order thereon as it thinks fit.

Power to make rules for Mukhtárs on appellate side of High Court.

16. Notwithstanding anything contained in any Letters Patent or in the Code of Civil Procedure, section 37, clause (a) [°], any High Court established by Royal Charter may, from time to time, make rules consistent with this Act as to the following matters (namely):—

XIV of 1882.

- (a) the qualifications and admission of proper persons to be Mukhtárs practising on the appellate side of such Court;
- (b) the fees to be paid for the examination and admission of such persons;

(c) the

[°] To be read as "District Magistrate"—see Act X of 1882, s. 3. (For Act X of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.)

[°] This reference should now be read as applying to Act XIV of 1882—see s. 3 of that Act. (For Act XIV of 1882 see the revised edition, as modified up to 1st July, 1888, published by the Legislative Department.)

(Chapter IV.—Of Revenue-agents.—Sections 17-18.)

- (c) the security which they may be required to give for their honesty and good conduct;
- (d) the suspension and dismissal of such Mukhtárs; and
- (e) declaring what shall be deemed to be their functions, powers and duties;

and may prescribe and impose fines for the infringement of such rules, not exceeding in any case five hundred rupees; and such fines, when imposed, may be recovered as if they had been imposed in the exercise of the High Court's ordinary original criminal jurisdiction.

CHAPTER IV.

OF REVENUE-AGENTS.

17. The Chief Controlling Revenue-Authority may, from time to time, make rules consistent with this Act as to the following matters (namely):—

Power to make rules as to qualifications, etc., of Revenue-agents.

- (a) the qualifications, admission and certificates of proper persons to be Revenue-agents;
- (b) the fees to be paid for the examination and admission of such persons;
- (c) the suspension and dismissal of such Revenue-agents; and
- (d) declaring what shall be deemed to be their functions, powers and duties.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

Publication of rules.

18. On the admission of any person as a Revenue-agent under section 17, the Chief Controlling Revenue-Authority shall cause a certificate, signed by such officer as such Authority from time to time appoints in this behalf, to be issued to such person, authorizing him to practise up to the end of the cur-

Certificates to Revenue-agents.

rent

Legal Practitioners. [ACT XVIII
(Chapter IV.—Of Revenue-agents.—Sections
19-20.)

rent year in such Revenue-offices as may be specified therein.

At the expiration of such period, the holder of the certificate, if he desires to continue to practise, shall be entitled to have his certificate renewed by the Secretary of the Chief Controlling Revenue-Authority, or by any other officer authorised by such Authority in that behalf.

On every such renewal, the certificate then in the possession of such Revenue-agent shall be cancelled and retained by such Secretary or other officer.

Every certificate so renewed shall be signed by such Secretary or other officer and shall continue in force to the end of the current year.

Every officer so renewing a certificate shall notify the renewal to the Chief Controlling Revenue-Authority.

Enrolment
of Revenue-
agent.

19. Every Revenue-agent holding a certificate issued under section 18 may apply to be enrolled in any Revenue-office mentioned therein and situate within the limits of the territory under the Chief Controlling Revenue-Authority; and, subject to such rules as the Chief Controlling Revenue-Authority may, from time to time, make in this behalf, the officer presiding in such office shall enrol him accordingly, and thereupon he may practise as a Revenue-agent in such office and in any Revenue-office subordinate thereto.

No person to
act as agent
in Revenue-
offices unless
qualified.

20. Except as provided by this Act or any other enactment for the time being in force, no person, other than a Pleader duly qualified under the provisions hereinbefore contained, shall practise as a Revenue-agent in any Revenue-office, unless he holds a certificate issued under section 18 and has been enrolled in such office or some other office to which it is subordinate:

Provided that any person duly authorised in this behalf may, with the sanction of the Chief Controlling

(Chapter IV.—Of Revenue-agents.—Sections 21-22.)

ling Revenue-Authority, or of an officer empowered by the Local Government in this behalf, transact all or any business in which his principal may be concerned in any Revenue-office.

The sanction mentioned in this section may be general or special, and may at any time be revoked or suspended by the Authority or officer granting the same.

21. The Chief Controlling Revenue-Authority may suspend or dismiss any Revenue-agent holding a certificate issued under this Act who is convicted of any criminal offence implying a defect of character which unfits him to be a Revenue-agent.

Dismissal
of Revenue-
agent con-
victed of
criminal of-
fence.

[*] 22. The Chief Controlling Revenue-Authority may also, after such inquiry as it thinks fit, suspend or dismiss any Revenue-agent holding a certificate as aforesaid—

Suspension
and dis-
missal
of Revenue-
agents
guilty of
unprofession-
al conduct.

(a) who is guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or

(b) who tenders, gives or consents to the retention, out of any fee paid or payable to him for his services, of any gratification for procuring or having procured the employment in any legal business of himself or any other Revenue-agent, or

(c) who, directly or indirectly, procures or attempts to procure the employment of himself as such Revenue-agent through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given, or

(d) who

[*] This section was substituted for the original section by Act XI of 1896, s. 3.

(d) who accepts any employment in any legal business through a person who has been proclaimed as a tout under section 36, or

(e) for any other reasonable cause.

Procedure
when Revenue-agent
is so charged
in subordinate
office.

23. If any Revenue-agent holding a certificate issued under this Act is charged with any such conduct in any office subordinate to the Chief Controlling Revenue-Authority, or in the Court of any Munsif, the officer at the head of such office, or such Munsif, as the case may be, shall send him a copy of the charge, and also a notice that, on a day to be therein appointed, such charge will be taken into consideration.

Such copy and notice shall be served upon the person charged at least fifteen days before the day so appointed. On such day or on any other day to which the enquiry may be adjourned, the officer or Munsif shall receive all evidence properly produced in support of the charge, or by the person charged, and shall proceed to adjudicate on the charge.

If the officer or Munsif finds the charge established, and considers that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and report the same to the Chief Controlling Revenue-Authority; and such Authority shall proceed to acquit, suspend or dismiss him.

Any Revenue-officer not inferior to a Collector, and, with the Collector's sanction, any Revenue-officer subordinate to him, or any Munsif in his district, may, pending the investigation and the orders of the Chief Controlling Revenue-Authority, suspend from practice any Revenue-Agent charged before him under this section.

Where any officer acting under this section is subordinate to the Commissioner of a Division, he shall transmit the report through such Commissioner,
who

(Chapter IV.—Of Revenue-agents.—Section 24.

Chapter V.—Of Certificates.—Sections 25-26.

Chapter VI.—Of the Remuneration of Pleaders, Mukhtárs and Revenue-agents.—Section 27.)

who shall forward with the same an expression of his own opinion on the case.

24. The Chief Controlling Revenue-authority, in any case in which a Revenue-agent has been acquitted under section 23 otherwise than by an order of the Chief Controlling Revenue-authority, may call for the record and pass such order thereon as seems fit.

Power to Chief Controlling Revenue-authority to call for record.

CHAPTER V.

OF CERTIFICATES.

25. Every certificate, whether original or renewed, issued under this Act shall be written upon stamped paper of the value prescribed therefor in the second schedule hereto annexed [*] and of such description as the Local Government may, from time to time, prescribe [*]:

Fee for certificates.

Provided that a certificate issued on or after the first day of July in any year may be written on stamped paper of half the value so prescribed.

26. When any Pleader, Mukhtár or Revenue-agent is suspended or dismissed under this Act, he shall forthwith deliver up his certificate to the Court or officer at the head of the office before or in which he was practising at the time he was so suspended or dismissed, or to any Court or officer to which the High Court or Chief Controlling Revenue-authority (as the case may be) orders him to deliver the same.

Dismissed practitioners to surrender certificates.

CHAPTER VI.

OF THE REMUNERATION OF PLEADERS, MUKHTÁRS AND REVENUE-AGENTS.

27. The High Court shall, from time to time, fix and

High Court and Chief

[*] These words were inserted by Act IX of 1884, s. 5.

(Chapter VI.—Of the Remuneration of Pleaders, Mukhtárs and Revenue-agents.—Sections 28-29.)

Controlling Revenue-authority to fix fees on civil and revenue-proceedings.

and regulate the fees payable by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Mukhtár or Attorney upon all proceedings (a) on the appellate side of such Court, (b) in the case of a High Court not established by Royal Charter, on its original side, and (c) in subordinate Courts, [*] and in respect of the fees of his adversary's Revenue-agent appearing, pleading or acting under section 10[*].

The Chief Controlling Revenue-authority shall, from time to time, fix and regulate the fees payable upon all proceedings in the Revenue-offices by any party in respect of the fees of his adversary's Advocate, Pleader, Vakíl, Attorney, Mukhtár or Revenue-agent.

Tables of the fees so fixed shall be published in the local official Gazette.

Exception as to agents mentioned in section 20.

Nothing in this section applies to the agents mentioned in the proviso to section 20.

Agreements with clients.

28. No agreement entered into by any Pleader, Mukhtár or Revenue-agent with any person retaining or employing him, respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges or disbursements in respect of business done or to be done by such Pleader, Mukhtár or Revenue-agent shall be valid unless it is made in writing signed by such person, and is, within fifteen days from the day on which it is executed, filed in the District Court or in some Court in which some portion of the business in respect of which it has been executed has been or is to be done.

Power to modify or cancel agreements.

29. Where a suit is brought to enforce any such agreement, if the agreement is not proved to be fair and reasonable, the Court may reduce the amount payable thereunder or order it to be cancelled, and the costs, fees, charges and disbursements in respect of
the

[*] These words were added by Act IX of 1884, s. 6.

(*Chapter VI.—Of the Remuneration of Pleaders, Mukhtárs and Revenue-agents.—Sections 30-31. Chapter VII.—Penalties.—Sections 32-33.*)

the business done to be ascertained in the same manner as if no such agreement had been made.

30. Such an agreement shall exclude any further claim of the Pleader, Mukhtár or Revenue-agent beyond the terms of the agreement with respect to any services, fees, charges or disbursements in relation to the conduct and completion of the business in respect of which the agreement is made, except such services, fees, charges or disbursements, if any, as are expressly excepted by the agreement.

Agreements to exclude further claims.

31. A provision in any such agreement that the Pleader, Mukhtár or Revenue-agent shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such Pleader, Mukhtár or Revenue-agent, shall be wholly void.

Reservation of responsibility for negligence.

CHAPTER VII.

PENALTIES.

32. Any person who practises in any Court or Revenue-office in contravention of the provisions of section 10 or section 20 shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding ten times the amount of the stamp required by this Act for a certificate authorising him so to practise in such Court or office, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

On persons illegally practising as Pleaders, Mukhtárs or Revenue-agents.

He shall also be incapable of maintaining any suit for, or enforcing any lien with respect to, any fee or reward for, or with respect to, anything done or any disbursement made by him as Pleader, Mukhtár or Revenue-agent whilst he has been contravening the provisions of either of such sections.

33. Any Pleader, Mukhtár or Revenue-agent failing to deliver up his certificate as required by

On suspended or dismissed Pleader, etc.,

section

Legal Practitioners. [ACT XVIII
(Chapter VII.—Penalties.—Sections 34-36.)

failing to
deliver cer-
tificate.

section 26 shall be liable, by order of the Court, Authority or officer to which or to whom, or according to whose orders, the delivery should be made, to a fine not exceeding two hundred rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to three months.

On suspended
or dismissed
practitioner
practising
during
suspension
or after
dismissal.

34. Any Pleader, Mukhtár or Revenue-agent who, under the provisions of this Act, has been suspended or dismissed, and who, during such suspension or after such dismissal, practises as a Pleader, Mukhtár or Revenue-agent in any Court or Revenue-office, shall be liable, by order of such Court or the officer at the head of such office, to a fine not exceeding five hundred rupees, and, in default of payment, to imprisonment in the civil jail for a term which may extend to six months.

Revision of
fines.

35. Every order under section 32, 33 or 34 shall be subject to revision by the High Court where the order has been passed by a subordinate Court, and by the Chief Controlling Revenue-authority where the order has been passed by an officer subordinate to such Authority.

Power to
frame and
publish lists
of touts.

[^a] 36. (1) Every High Court, District Judge, Sessions Judge, District Magistrate and Presidency Magistrate, every Revenue-officer, not being below the rank of a Collector of a District, and the Chief Judge of every Presidency Small Cause Court (each as regards their or his own Court and the Courts, if any, subordinate thereto) may frame and publish lists of persons proved to their or his satisfaction, by evidence of general répute or otherwise, habitually to act as touts, and may, from time to time, alter and amend such lists.

(2) No person's name shall be included in any such list until he shall have had an opportunity of showing cause against such inclusion.

(3) A copy

[^a] This section was substituted for the original section by Act XI of 1896, s. 4.

(3) A copy of every such list shall be kept hung up in every Court to which the same relates.

(4) The Court or Judge may, by general or special order, exclude from the precincts of the Court any person whose name is included in any such list.

(5) Every person whose name is included in any such list shall be deemed to be proclaimed as a tout within the meaning of section 13, clause (e), and section 22, clause (d).

CHAPTER VIII.

MISCELLANEOUS.

37. To facilitate the ascertainment of the qualifications mentioned in sections 6 and 17 respectively, the Local Government shall, from time to time, appoint persons to be examiners for the purposes aforesaid, and may, from time to time, make regulations for conducting such examinations.

Local Government to appoint examiners.

38. Except as provided by sections 4, 5, 16, 27, 32 and 36, nothing in this Act applies to Advocates, Vakíls and Attorneys admitted and enrolled by any High Court under the Letters Patent by which such Court is constituted, or to Mukhtárs practising in such Court or to Advocates enrolled [“]under section 41 of this Act[“].

Exemption of High Court practitioners from certain parts of Act.

39. When any person who holds a certificate as a Mukhtár under section 7 and a certificate as a Revenue-agent under section 18 is suspended or dismissed in one of such capacities, he shall be deemed to be suspended or dismissed, as the case may be, also in the other.

Suspension or dismissal of person holding Mukhtár and Revenue-agent's certificates.

40. Notwithstanding anything hereinbefore contained, no Pleader, Mukhtár or Revenue-agent shall be suspended or dismissed under this Act unless he has

Pleaders, etc., not to be suspended or dismissed

[“-”] These words were substituted for the original words by Act IX of 1884, s. 7.

without
being heard.

has been allowed an opportunity of defending himself before the Authority suspending or dismissing him.

Power for
certain High
Courts to
enrol advocates.

[^a] 41. (1) A High Court not established by Royal Charter may, from time to time, with the previous sanction of the Local Government, make rules as to the qualifications and admission of proper persons to be advocates of the Court, and, subject to such rules, may enrol such and so many advocates as it thinks fit.

(2) Every advocate so enrolled shall be entitled to appear for the suitors of the Court, and to plead or to act, or to plead and act, for those suitors, according as the Court may by its rules determine, and subject to those rules.

(3) The High Court may dismiss any advocate so enrolled or suspend him from practice :

(4) Provided that an advocate shall not be dismissed or suspended under this section unless he has been allowed an opportunity of defending himself before the High Court which enrolled him, and, except in the case of the Chief Court of the Punjab, unless the order of the High Court dismissing or suspending him has been confirmed by the Local Government.

Repeal of
Acts I of
1846 and
XX of 1853.

[^b] 42. Act I of 1846 (*for amending the law regarding the appointment and remuneration of pleaders in the Courts of the East India Company*) and Act XX of 1853 (*to amend the law relating to pleaders in the Courts of the East India Company*) are repealed.

FIRST

[^a] This section was substituted for the original section by Act IX of 1884, s. 8.

[^b] S. 42 was added by Act IX of 1884, s. 9.

1879.] *Legal Practitioners.*
(First Schedule.—Enactments repealed. Second
Schedule.—Value of Stamps for Certificates.)

FIRST SCHEDULE.
 ENACTMENTS REPEALED.
(See section 2.)

Number and date of enactments.	Title.	Extent of repeal.
Act XX of 1865 .	To amend the law relating to Pleaders and Mukhtárs.	The whole.
Act XXIX of 1865 .	To amend the Pleaders, Mukhtárs and Revenue-Agents Act, 1865.	So much as has not been repealed.
Act IX of 1866 .	To extend to the Sadr Court of the North-Western Provinces certain provisions of "The Pleaders, Mukhtárs and Revenue-Agents Act, 1865," and of Act No. XXIX of 1865.	The whole.
Act IV of 1876 .	To authorise Revenue-Agents to practise in certain suits in the Munsifs' Courts of the Lower Provinces of Bengal.	The whole.
Act XVII of 1877 .	The Punjab Courts Act, 1877	Sections 42, 43, 44 and 45.

SECOND SCHEDULE.
 VALUE OF STAMPS FOR CERTIFICATES.
(See section 25.)

I.

For a certificate authorising the holder to practise as a Pleader—

- (a) In the High Court and any subordinate Court—rupees fifty :
- (b) In any Court of Small Causes in a Presidency-town—rupees twenty-five :
- (c) In all other subordinate Courts—rupees twenty-five :
- (d) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns

Legal Practitioners. [ACT XVIII, 1879.]
(*Second Schedule.—Value of Stamps for Certificates.*)

Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees fifteen :

- (e) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

II.

For a certificate authorising the holder to practise as a Mukhtár—

- (f) In the High Court and any subordinate Court—rupees twenty-five :
- (g) In any Court of Small Causes in a Presidency-town—rupees fifteen :
- (h) In all other subordinate Courts—rupees fifteen :
- (i) In the Courts of Subordinate Judges, Munsifs, Assistant Commissioners, Extra Assistant Commissioners and Tahsildárs, in Courts of Small Causes outside the Presidency-towns and in all Criminal Courts subordinate to the High Court—rupees ten :
- (j) In the Courts of Munsifs and any Civil or Criminal Court of first instance not hereinbefore specifically mentioned—rupees five.

III.

For a certificate authorising the holder to practise as a Revenue-agent—

- (k) In the office of the Chief Controlling Revenue-authority and in any Revenue-office subordinate to such Authority—rupees fifteen :
- (l) In the office of a Commissioner and in any Revenue-office subordinate to a Commissioner—rupees ten :
- (m) In the office of a Collector and in any Revenue-office subordinate to a Collector—rupees five.

A^o 391
25/1/97

ACT No. XV OF 1896.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor General on the 10th September, 1896.)

An Act to amend the Glanders and Farcy Act, 1879.

XX of 1879. WHEREAS it is expedient further to amend the Glanders and Farcy Act, 1879; It is hereby enacted as follows:—

1. In section 1 of the said Act, as amended by Act XXIV of 1886, the words "except the territories respectively administered by the Governor of Fort St. George in Council and the Lieutenant-Governor of Bengal" are repealed. Amendment of section 1, Act XX, 1879.

2. To section 7 of the said Act the words "Provided that when the Inspector is also a Veterinary Practitioner so appointed he may make the examination himself" shall be added, and in sections 7 and 8, for the word "Surgeon," wherever it occurs, the word "Practitioner" shall be substituted. Amendment of sections 7 and 8, Act XX, 1879.

XII of 1891. 3. To the said Act, as amended by the Repealing and Amending Act, 1891, the following section shall be added, namely:— Addition of a section to Act XX, 1879.

"15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder." Appointment of same person to be both Inspector and Veterinary Practitioner.

[Price One Anna.]

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

No. $\frac{445}{1017/97}$
J

THE GLANDERS AND FARCY ACT, 1879, (ACT XX OF 1879.)

AS MODIFIED UP TO 1ST OCTOBER 1896.

CALCUTTA :

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1897.

Price three annas three pies.

CALCUTTA :
GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE,
8, HASTINGS STREET.

STATEMENT OF REPEALS AND AMENDMENTS.

SECTION 1 REPEALED IN PART BY	{	ACT XXIV OF 1886, section 1.
SECTION 15 REPEALED BY	{	ACT XV OF 1896, section 1.
	{	ACT XII OF 1891, section 2 (1) and the first schedule.
SECTION 7 AMENDED BY	{	
PROVISO TO SECTION ADDED BY	{	ACT XV OF 1896, section 2.
SECTION 8 AMENDED BY	{	
SECTION 15 ADDED BY	{	ACT XV OF 1896, section 3.

The following changes have been made in reprinting the Act :—

- (1) repealed matter has been omitted, explanatory notes being inserted ;
- (2) amendments have been inserted in their proper places, with explanatory foot-notes ;
- (3) some other foot-notes have been added for convenience of reference ;
- (4) the number and year of Acts referred to in the text have been noted on the inner margin, except where both appear in the text ; and
- (5) a table of contents has been prefixed.

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Veterinary Practitioner.
-

ACT No. XX OF 1879.^[a]

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th November, 1879.)

An Act to provide for the better prevention of Glanders and Farcy among Horses.

WHEREAS it is expedient to provide for the better prevention of glanders and farcy among horses ;
It is hereby enacted as follows :—

Preamble.

1. This Act may be called “The Glanders and Farcy Act, 1879” :

Short title.

It extends to the whole of British India ;^[b]
and it shall come into force at once.

Local extent.

Commencement.

2. In this Act, unless there is something repugnant in the subject or context,—

Interpretation-clause.

“horse” includes also ponies, asses, mules and jennets :

“horse :”

“diseased” means affected with glanders or farcy.

“diseased.”

3. The Local Government may, by notification in the official Gazette, apply this Act, or any provision of this

Local Government may apply the Act.

[a] This Act has been extended under section 5 of the Scheduled Districts Act (XIV of 1874) to Upper Burma (except the Shan States), see the Notification in the Appendix to Part I of the Burma Code, Ed. 1889, p. 491.

It has been applied to the following territories and places in Native States administered by the Governor General in Council, namely :—

(1) The Hyderabad Assigned Districts, Notification No. 2803-I, Gazette of India, 1896, Pt. I, p. 672.

(2) The Cantonment of Sikandarabad, Notification No. 170-I. J., Gazette of India, 1881, Pt. I, p. 323.

[b] The rest of this paragraph which excepted the territories administered by the Governors of Madras and Bombay and the Lieutenant-Governor of Bengal from the operation of the Act, were repealed by Act XXIV of 1886 and Act XV of 1896.

this Act, to any local area,[^a] to be specified in such notification, within the territories administered by it, and may in like manner amend or cancel any such notification.

Local Gov-
ernment to
appoint
Inspectors.

4. When this Act has been so applied to any local area, the Local Government may, by notification in the official Gazette,[^b] appoint either by name or by virtue of their office such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of such local area or such portions thereof as it may from time to time prescribe, the powers conferred and the duties imposed by this Act on such officers.

Every person so appointed may be suspended or dismissed by the Local Government which appointed him.

Every person so appointed shall be deemed a public servant within the meaning of the Indian Penal Code.[^c]

Act XLV of
1860.

5. Within

[a] For a list of places in the Central Provinces to which the Act has been applied, see Central Provinces Code, Ed. 1891, Appendix I, p. 369.

The whole Act and the rules framed thereunder were extended to the whole of the Panjab, see Notification No. 657, Panjab Gazette, 1883, Pt. I, p. 106.

For a list of places in the North-Western Provinces and Oudh to which the Act has been applied, see the Volume of Local Rules and Orders, Ed. 1894, published by the Government of the North-Western Provinces and Oudh, p. 226.

The Act has been extended to Rangoon, see Notification No. G. D. 434, p. 141, of the Burma Rules Manual, Ed. 1893, published by the Burma Secretariat ; and, with the exception of section 10, it has also been applied to the rest of Burma, including Upper Burma, except the Shan States, by Notification No. 244-R.D., dated 24th June, 1896, see *Burma Gazette*, 1896, Pt. I, p. 320.

For places to which the Act has been applied in the Presidency of Bombay, see Notification on pp. 173 and 175 of the compilation of Rules and Notifications under Acts chiefly dealt with in the Judicial Department of the Government of Bombay, Ed. 1893, published by that Department.

[b] For persons appointed under this section in the North-Western Provinces and Oudh, see the Volume of Local Rules and Orders, Ed. 1894, published by the Government of the North-Western Provinces and Oudh, p. 227 ; in the Central Provinces, see the similar volume for those Provinces, Ed. 1896, published under the authority of the Local Government, pp. 30 and 31 ; in Burma, see Notifications Nos. 245 and 246, dated 24th June, 1896, *Burma Gazette*, 1896, Pt. II, p. 320 ; in the Presidency of Bombay, see pp. 175 and 178 of the compilation of Rules and Notifications under Acts chiefly dealt with in the Judicial Department of the Government of Bombay, Ed. 1893, published by that Department.

[c] See Act XLV of 1860, section 21. (For Act XLV of 1860, see the revised edition, as modified up to 1st May, 1896, published by the Legislative Department).

5. Within the local limits for which he is so appointed, any such Inspector may seize any horse which he has reason to believe, from personal knowledge or from information given by any person and taken down in writing, is diseased.

Inspector's
power to
seize horse.

6. For the purpose of making such seizure, such Inspector may, subject to such rules as the Local Government may from time to time make in this behalf, enter and search any field, building or other place where he has reason to believe that any such horse is to be found.

Power of
entry, and
search given
to Inspectors.

7. On any such seizure, the Inspector shall cause the horse so seized to be examined as soon as possible by such Veterinary Practitioner^[a] as the Local Government may from time to time appoint in this behalf:

Horse to be
examined by
Veterinary
Practitioner.

[^b] Provided that when the Inspector is also a Veterinary Practitioner so appointed he may make the examination himself^[b].

8. If such^[a] Practitioner certifies in writing that such horse is diseased, the Inspector shall cause the same to be immediately destroyed; but if such^[a] Practitioner does not so certify, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

Horse to be
destroyed if
found dis-
eased;
otherwise
restored.

9. When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of such building, shed, place or lines, or the person in charge thereof, directing him to have the same disinfected, and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may from time to time by rule prescribe, destroyed.

When horse
diseased,
place where
it has been
to be disin-
fected, etc.

On the failure or neglect of such owner or other person to comply with such notice within a reasonable time, the Inspector shall cause such building, shed,
place

[^a] The word "Practitioner" was substituted for the word "Surgeon" in sections 7 and 8 by Act XV of 1896, section 2.

[^{b-b}] The proviso to section 7 was added by Act XV of 1896, section 2.

place or lines to be disinfected, and such fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from such owner or other person as if it were a fine.^[a]

Owner or person in charge of diseased horse to give notice.

Prohibition against removal, without license, of horse which has been with diseased horse.

Vexatious entries, searches and seizures.

10. The owner or any person in charge of a diseased horse shall give immediate information of such horse being diseased to the Inspector or to some officer of Police.

11. No person in charge of any horse which has been in the same field, building or place or in contact with a diseased horse shall move such horse, except in good faith for the purpose of preventing infection or under a license to be granted by the Inspector and subject to the conditions of such license.

12. Any Inspector who, without reasonable ground of suspicion, enters or searches any field, building or other place, or vexatiously and unnecessarily seizes or detains any horse on the pretence that it is diseased, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Penalty for refusing to comply with notice under section 9; or moving horse contrary to section 11.

Power to make rules.

13. Any person who refuses or neglects to comply with any notice issued by the Inspector under section 9, or who moves any horse in contravention of section 11, shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

14. The Local Government may, from time to time, make rules, consistent with this Act,—

(a) for regulating entries and searches by Inspectors under this Act;

(b) for regulating the destruction of horses certified under section 8 to be diseased, and the disposal of the carcases of such horses;

(c) for

[^a] As to recovery of fines, see the General Clauses Act (I of 1868), section 5. [Printed General Acts, 1867-76, Ed. 1887, p. 16]

(c) for regulating the disinfecting of buildings and places in which diseased horses have been, and for prescribing what things found therein or near thereto shall be destroyed ;

(d) for regulating the grant of licenses under section 11, and the conditions on which such licenses shall be granted ; and

(e) generally for carrying out the purposes of this Act.

[^a] All such rules shall be published in the official Gazette, and shall thereupon have the force of law.

Any person breaking a rule made under this section shall be punished with imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both.

[^b] 15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder.

Appointment of same person to be both Inspector and Veterinary Practitioner.

[^a] For rules made by the Government of the Panjab, see Notification No. 3598, Panjab Gazette, 1880, Pt. I, p. 401. These rules have been extended to the whole of the Panjab, see foot-note[^b] on page 2, *supra* ; by the Government of the North-Western Provinces and Oudh, see Notification No. 1494, printed in the Volume of Local Rules and Orders, Ed. 1894, published by that Government, Part II, p. 114 ; by the Chief Commissioner, Central Provinces, see Notification No. 1740, printed at page 81 of the Volume of Local Rules and Orders, Ed. 1896, published under the authority of the Local Government ; by the Chief Commissioner of Burma, see Notification No. 247-R. D., dated the 24th June, 1896, Burma Gazette, 1896, Pt. I, p. 320 ; by the Government of Bombay, see pp. 173 to 176 of the compilation of Rules and Notifications under Acts chiefly dealt with in the Judicial Department of that Government, Ed. 1893, published by that Department.

[^b] The present section 15 was added by Act XV of 1896, section 3. The original section was previously repealed by the Repealing and Amending Act (XII of 1891), section 2 (I) and the first schedule.

No. 679
25/10/99

ACT No. XIII OF 1899.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 20th March, 1899.)

An Act to consolidate and amend the Law relating to Glanders and Farcy.

WHEREAS it is expedient to consolidate and amend the law relating to glanders and farcy; It is hereby enacted as follows:—

1. (1) This Act may be called the Glanders and Farcy Act, 1899.

Short title, extent and commencement.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

2. (1) In this Act, unless there is anything repugnant in the subject or context, "diseased" means affected with glanders or farcy or any other dangerous epidemic disease among horses which the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

Definition of "diseased."

(2) The provisions of this Act relating to horses shall apply also to asses and mules.

3. The Local Government may, by notification in the local official Gazette, apply this Act, or any provision of this Act, to any local area, to be specified in such notification, within the Province.

Application of Act to local areas by Local Government.

4. (1) When this Act has been so applied to a local area, the Local Government may, by notification in the local official Gazette, appoint such persons as it thinks fit to be Inspectors under this Act and to exercise and perform, within the whole of the local area or such portions thereof as it may prescribe, the

Local Government to appoint Inspectors.

powers

Price two annas.]

powers conferred and the duties imposed by this Act on such officers.

(2) Every person so appointed shall be deemed to be a public servant within the meaning of the Indian Penal Code.

XLV of 1860

Power of
entry and
search.

5. Within the local limits for which he is so appointed, any such Inspector as aforesaid may, subject to such rules as the Local Government may make in this behalf, enter and search any field, building or other place for the purpose of ascertaining whether there is therein any horse which is diseased.

Power of
seizure.

6. Within such limits as aforesaid, the Inspector may seize any horse which he has reason to believe to be diseased.

Horse to be
examined by
Veterinary
Practitioner.

7. (1) On any such seizure as aforesaid, the Inspector shall cause the horse seized to be examined as soon as possible by such Veterinary Practitioner as the Local Government may appoint in this behalf :

Provided that, when the Inspector is also a Veterinary Practitioner so appointed, he may make the examination himself.

(2) For the purposes of the examination, the Veterinary Practitioner may submit the horse to any test or tests which the Local Government may prescribe.

Horse to be
destroyed if
found dis-
eased : other-
wise restored.

8. (1) If the Veterinary Practitioner certifies in writing that the horse is diseased, the Inspector shall cause the same to be immediately destroyed :

Provided that, in the case of any disease other than glanders or farcy, horses certified to be diseased as aforesaid may, subject to any rules which the Local Government may make in this behalf, be either destroyed or otherwise treated or dealt with as the Veterinary Practitioner may deem necessary.

(2) If, after completing the examination, the Veterinary Practitioner does not certify that the horse is diseased, the Inspector shall at once deliver the same to the person entitled to the possession thereof.

9. (1) When

9. (1) When any diseased horse has been in any building, shed or other enclosed place, or in any open lines, the Inspector may issue a notice to the owner of the building, shed, place or lines, or to the person in charge thereof, directing him to have the same disinfected and the internal fittings thereof, or such other things found therein or near thereto as the Local Government may by rule prescribe, destroyed.

When horse diseased, place where it has been to be disinfected, etc,

(2) On the failure or neglect of such owner or other person as aforesaid to comply with the notice within a reasonable time, the Inspector shall cause the building, shed, place or lines to be disinfected and the fittings or other things to be destroyed, and the expense (if any) thereby incurred may be recovered from the owner or other person as if it were a fine.

10. The owner or any person in charge of a diseased horse shall give immediate information of the horse being diseased to the Inspector or to such authority as the Local Government may appoint in this behalf.

Owner or person in charge of diseased horse to give notice.

11. No person in charge of any horse which has been in the same field, building or place as, or in contact with, a diseased horse, shall remove such horse except in good faith for the purpose of preventing infection, or under a license to be granted by the Inspector and subject to the conditions of the license.

Prohibition against removal, without license, of horse which has been with diseased horse.

12. (1) Whoever, being an Inspector appointed under this Act, vexatiously and unnecessarily enters or searches any field, building or other place, or seizes or detains any horse on the pretence that it is diseased, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Vexatious entries, searches and seizures.

(2) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

13. Whoever refuses or neglects to comply with any notice issued by the Inspector under section 9,

Penalty for refusing to comply with

or

notice under
section 9, or
for moving
horse con-
trary to sec-
tion 11.

Power to
make rules.

or removes any horse in contravention of section 11, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

14. (1) The Local Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules as aforesaid may—

(a) regulate entries, searches and seizures by Inspectors under this Act;

(b) regulate the use of tests and the isolation of horses subjected thereto, and provide for recovering the expense of detaining, isolating and testing horses from the owners or persons in charge thereof as if it were a fine;

(c) regulate the destruction or treatment, as the case may be, of horses certified under section 8 to be diseased, and the disposal of the carcasses of diseased horses;

(d) regulate the disinfecting of buildings and places in which diseased horses have been, and prescribe what things found therein or near thereto shall be destroyed; and

(e) regulate the grant of licenses under section 11 and the conditions on which those licenses shall be granted.

(3) All rules under this section shall be published in the local official Gazette, and, on such publication, shall have effect as if enacted by this Act.

(4) In making any rule under this section, the Local Government may direct that a breach of it shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Appoint-
ment of same
person to be

15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and
Veterinary

1869.]

Glanders and Farcy.

Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder.

both Inspector and Veterinary Practitioner.

16. No suit, prosecution or other legal proceeding shall lie against any person for anything which is, in good faith, done or intended to be done under this Act.

Protection to persons acting under Act.

17. The enactments mentioned in the schedule are hereby repealed to the extent specified in the fourth column thereof.

Repeal.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 17.)

Year.	No.	Short Title.	Extent of Repeal.
1879	XX	The Glanders and Farcy Act, 1879.	The whole Act.
1891	XII	The Repealing and Amending Act, 1891.	So much as relates to Act XX of 1879.
1896	XV	The Glanders and Farcy Act (1879) Amendment Act, 1896.	The whole Act.
1897	XIV	The Indian Short Titles Act, 1897.	So much as relates to Act XV of 1896.

ACT No. I OF 1896.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 10th January 1896.)

An Act to amend the Indian Emigration Act, 1883.

XXI of 1883. **WHEREAS** it is expedient to amend the Indian Emigration Act, 1883; It is hereby enacted as follows:—

1. In section 105, sub-section (1), of the said Act, for the words "under a contract" the words "under, or with a view to entering into, an agreement" shall be substituted. Amendment of section 105, Act XXI, 1883.

2. After section 105 of the said Act the following section shall be added, namely:— Addition of new section after section 105, Act XXI, 1883.

"106. The Governor General in Council may, from time to time, by notification in the Gazette of India, declare that all or any of the provisions of this Act or the rules thereunder shall not apply, or shall apply subject to such conditions, modifications or restrictions as to the Governor General in Council may seem expedient, in the case of Natives of India departing out of British India under an agreement made with, or on behalf of, Her Majesty's Government to labour for hire in any country beyond the sea: Power to declare whole or part of Act and rules inapplicable to Natives of India engaged for Her Majesty's Government to labour for hire in any country beyond the sea.

Provided that no notification under this section shall be issued unless the Governor General in Council is first satisfied that the fair treatment of Natives of India so departing out of British India has, by rules or otherwise, duly been secured."

[Price one anna.]

Sp. 447
10/9/97

ACT No. VII OF 1897.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 4th March, 1897.)

An Act to amend the Indian Emigration Act, 1883.

XXI of 1883. WHEREAS it is expedient to amend the Indian Emigration Act, 1883; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Emigration Act Amendment Act, 1897; and

Short title and commencement.

(2) It shall come into force at once.

XXI of 1883. 2. In section 102 of the Indian Emigration Act, 1883, as amended by Act No. XVIII of 1890, section 7, for the words "British colony or possession", wherever they occur, the word "country", and for the words "State, colony or possession", wherever they occur, the words "State or country", shall be substituted.

Amendment of section 102 of Act XXI, 1883.

[Price one anna]

Government of India Central Printing Office.—No. 680 L. D.—29-3-97.—5,600.—H. R.

7

GOVERNMENT OF INDIA,
LEGISLATIVE DEPARTMENT.

No 459
22/9/97

✓

**THE INDIAN EMIGRATION ACT, 1883,
(ACT XXI OF 1883,)**

AS MODIFIED UP TO THE 5TH MARCH, 1897.

CALCUTTA :
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1897.

Price eleven annas.

CALCUTTA:
GOVERNMENT OF INDIA CENTRAL PRINTING OFFICE,
8, HASTINGS STREET.

STATEMENT OF REPEALS AND AMENDMENTS.

SECTION 31 AMENDED	ACT XVIII OF 1890, s. 1.
SECTION 35 AMENDED	DITTO, s. 2 (1).
SECTION 35, SUB-SECTION (4), ADDED	DITTO, s. 2 (2).
NEW SECTION SUBSTITUTED FOR SECTION 37	DITTO, s. 3.
SECTION 49, SUB-SECTIONS (1) AND (2), AMENDED	DITTO, s. 4.
PROVISO ADDED TO SECTION 56 (1)	DITTO, s. 5.
SECTION 70 REPEALED	DITTO, s. 6.
NEW SECTION SUBSTITUTED FOR SECTION 102	DITTO, s. 7.
SECTION 102 AMENDED	ACT VII OF 1897.
SECTION 105, SUB-SECTION (1), CLAUSE (b), AMENDED	ACT XVIII OF 1890, s. 9.
SECTION 105, SUB-SECTION (1), AMENDED	ACT I OF 1896, s. 1.
NEW SECTION 106 ADDED	DITTO, s. 2.

The following changes have been made in reprinting the Act :—

- (1) The date on which the Act became law by receiving the assent of the Governor General is given in square brackets under the heading.
- (2) A foot-note has been added on page 7 giving references to the Gazettes publishing the Statement of Objects and Reasons and the debates in Council. These, however, it should be understood, cannot be referred to for the purpose of construing the Act judicially.
- (3) Repealed matter has been omitted, explanatory foot-notes being inserted.
- (4) Amendments have been inserted in their proper places, with explanatory foot-notes.
- (5) Some further foot-notes have been inserted for convenience of reference.
- (6) Section-numbers occurring in the text have been printed in figures instead of in words.
- (7) The number and year of Acts referred to in the text have been noted on the inner margin.

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ACT NO. XXI OF 1883¹

OF THE GOVERNOR GENERAL OF INDIA IN COUNCIL,

[18th December, 1883.]

An Act to amend the law relating to the Emigration of Natives of India.

[As modified up to the 5th March, 1896.]

WHEREAS it is expedient to amend the law relating to the emigration of Natives of India ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Indian Emigration Act, 1883. Short title and extent.
- (2) It extends to the whole of British India.
2. Nothing in this Act or in any rule made under this Act shall apply to any vessel belonging to, or in the service of, Her Majesty or of the Government of India. Exemption of Government vessels.
3. Except as to the power to make rules, this Act shall come into force on such day² as the Governor General in Council, by notification in the Gazette of India, appoints. Commencement.

4. On

¹ This Act has been declared in force in the Santál Parganas by the Santál Parganas Settlement Regulation, 1872 (III of 1872), s. 9 and Schedule, as amended by the Santál Parganas Laws Regulation, 1886 (III of 1886), section 6 [Bengal Code, Ed. 1889, Vol. I, p. 606].

For the Statement of Objects and Reasons with which the Bill, which eventually became Act XXI of 1883, was published, see the Gazette of India, 1881, Part V, p. 1082. For the debates in Council, see *ibid*, 1883, Supplement, p. 2332.

² The 1st April, 1886—see Gazette of India, 1886, Part I, p. 258.

(Chapter I.—Preliminary.—Sections 4-6.)

Repeal of
enactments,

4. On and from the day on which this Act comes into force, the Indian Emigration Act, 1871, and Act No. XIV of 1872 (*to exempt the Straits Settlements from the Indian Emigration Act, 1871,*) shall be repealed. VII of 1871.

Saving for
proceedings
under repeal-
ed enact-
ments.

5. All notifications issued, contracts entered into, rules and appointments made, and licenses granted under any enactment hereby repealed, and in force on the day on which this Act comes into force, shall (so far as they are consistent with this Act) be deemed to have been respectively issued, entered into, made and granted under this Act.

Definitions.

6. In this Act, unless there is something repugnant in the subject or context,—

(1) “emigrate” and “emigration” denote the departure by sea out of British India of a Native of India under an agreement to labour for hire in some country beyond the limits of India other than the island of Ceylon or the Straits Settlements :

Provided that a domestic servant when accompanying his employer shall not be deemed to emigrate within the meaning of the above definition :

(2) “emigrant” means any Native of India who emigrates, or has emigrated, within the meaning of the above definition, or who has been registered under this Act¹ as an emigrant, and includes any dependent of an emigrant :

(3) “dependent” means any of the following persons accompanying any emigrant, namely :—

(a) any woman who has not entered into an agreement to emigrate under this Act ;

(b) any child in whose name and on whose behalf any such agreement has not been entered into ; and

(c) any aged or incapacitated relative or friend :

(4) “Magistrate”

¹ See Chap. VI, *infra*, p. 18.

(Chapter II.—Ports from which, and Countries to which, Emigration is lawful.—Section 7.)

(4) “Magistrate” means, in the Presidency-towns, a Presidency Magistrate, and elsewhere a District Magistrate or a Sub-divisional Magistrate, and includes also any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Magistrate under this Act :

(5) “Registering Officer” means any person appointed by the Local Government, by name or by virtue of his office, to perform in any local area the functions of a Registering Officer under this Act :

(6) “recruiter” includes a head recruiter or other person who collects or receives emigrants recruited by other persons :

(7) “vessel” includes anything made for the conveyance by water of human beings or property :

(8) “emigrant-vessel” means a vessel the master of which is licensed under this Act to carry emigrants therein : and

(9) “master” means any person (except a pilot or harbour-master) having for the time being control or charge of a vessel.

CHAPTER II.

PORTS FROM WHICH, AND COUNTRIES TO WHICH, EMIGRATION IS LAWFUL.

7. (1) Emigration shall not be lawful except from the ports of Calcutta, Madras and Bombay, and from such other ports as the Governor General in Council, from time to time, by notification in the Gazette of India, declares to be ports from which emigration is lawful.

Ports from which emigration is lawful.

(2) The Governor General in Council may at any time, by a like notification, revoke any notification issued under this section.

(3) The

(Chapter II.—Ports from which, and Countries to which, Emigration is lawful.—Sections 8-9.)

(3) The Local Government may, from time to time, by notification in the official Gazette, fix for the purposes of this Act the limits of any port from which emigration is lawful.

Countries to which emigration is lawful.

8. (1) Emigration shall not be lawful except to the countries specified in the first schedule hereto annexed, and to such other countries as the Governor General in Council, from time to time, by notification in the Gazette of India, declares to be countries to which emigration is lawful.

(2) Every notification under this section must contain a declaration that the Governor General in Council has been duly certified that the Government of the country to which the notification refers has made such laws and other provisions as the Governor General in Council thinks sufficient for the protection of emigrants to that country during their residence therein.

Power for Governor General in Council to prohibit emigration to any country.

9. (1) Whenever the Governor General in Council has reason to believe that any of the grounds, hereinafter mentioned, for prohibiting emigration to any country to which emigration is lawful, exists, he may, by notification in the Gazette of India, declare that emigration to that country shall cease to be lawful from a day specified in the notification¹; and from that day emigration to that country shall accordingly cease to be lawful.

(2) The grounds referred to in sub-section (1) of this section are—

(a) that the plague or any other epidemic disease dangerous to human life has broken out in the country;

(b) that

¹ Emigration to the French Colonies of Cayenne (French Guiana), Réunion, Martinique and Guadeloupe has been prohibited—see Notifications Nos. 114, 249E. and 196-58-19E., dated respectively 12th July, 1877, 8th November, 1882, and 1st November, 1888—Gazette of India, 1877, 1882 and 1888, Part I, pages 356, 461 and 495, respectively.

(Chapter II.—Ports from which, and Countries to which, Emigration is lawful.—Sections 10-11.)

- (b) that the mortality among emigrants in the country is excessive;
- (c) that proper measures have not been taken for the protection of emigrants immediately on their arrival in the country or during their residence therein;
- (d) that the agreements made with emigrants, as such, before their departure from India are not duly enforced by the Government of the country; and
- (e) that the Governor General in Council, having, either directly or through the Secretary of State for India in Council, addressed the Government of the country with a view to obtain information regarding the condition or treatment of emigrants therein, has not within a reasonable time received the information asked for.

10. (1) Whenever the Local Government has reason to believe that, in any country to which emigration is lawful, the plague or other epidemic disease dangerous to human life has broken out, and that emigrants, if allowed to emigrate to that country, would be exposed to serious risk of life on arrival there, it may, by notification in the official Gazette, declare that emigration to that country from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

Power for Local Gov-
ernment to
suspend emi-
gration pend-
ing reference
to Governor
General in
Council.

(2) The Local Government shall at once report the publication of a notification under this section, with the reasons for it, to the Governor General in Council, who shall thereupon publish a notification in the Gazette of India confirming or cancelling the notification published by the Local Government.

11. Whenever the Governor General in Council is satisfied that the ground on which a notification has been published by him under either of the two

Revocation of
prohibition.

last

(Chapter II.—Ports from which, and Countries to which, Emigration is lawful.—Sections 12-13.
Chapter III.—Emigration Agents.—Sections 14-15.)

last foregoing sections with respect to any country has ceased to exist, he may, by notification in the Gazette of India, declare that emigration to that country shall again be lawful from a day to be specified in the notification.

Power for Local Government to prohibit emigration to specified country from the whole or any specified part of its territories.

12. (1) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the official Gazette, prohibit, from a day specified in the notification, all Natives of India or any specified class of Natives, from emigrating from the whole or any specified part of the territories under its administration to any specified country.

(2) The Local Government may, with the like sanction, in like manner, vary or cancel any notification published under this section.

Saving for acts done before publication of notification.

13. The publication of a notification under any of the four last foregoing sections shall not affect any act done, offence committed or proceedings commenced before the publication.

CHAPTER III.

EMIGRATION AGENTS.

Appointment of Emigration Agents.

14. (1) The Government of every country to which emigration is lawful may, from time to time, appoint a person to be Emigration Agent in any port from which emigration is lawful, and may suspend or remove any person so appointed.

(2) An appointment under this section shall not take effect until the Local Government, by notification in the official Gazette, has declared its approval of the appointment.

Remuneration of Agents.

15. The remuneration to be given to an Emigration Agent shall not depend on, or be regulated by, the

(Chapter IV.—*Protectors of Emigrants and Medical Inspectors.*—Sections 16-17.)

the number of emigrants sent by him, but shall be in the nature of a fixed salary :

Provided that the Governor General in Council may, from time to time, authorize the payment to specified Emigration Agents of special fees for occasional work.

CHAPTER IV.

PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

16. (1) The Local Government may, from time to time, appoint a proper person to be the Protector of Emigrants for any port within the territories administered by it from which emigration is lawful.

Appointment
of Protectors
of Emi-
grants.

(2) The Governor General in Council may, from time to time, define the local area to which the authority of any Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants may be suspended or removed by the Local Government which appointed him.

(4) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.¹

XLV of 1860.

17. Every Protector of Emigrants, in addition to the special duties assigned to him by this Act or the rules made under this Act, shall—

General
duties of
Protector.

- (a) protect and aid with his advice all emigrants ;
- (b) cause, so far as he can, all the provisions of this Act and of the rules made under this Act to be complied with ;
- (c) inspect, on arrival, all vessels bringing return-emigrants to the port for which he is Protector ;

(d) enquire.

¹ For Act XLV of 1860 see the revised edition, as modified up to the 1st May, 1896, published by the Legislative Department.

(Chapter IV.—*Protectors of Emigrants and Medical Inspectors.*—Sections 18-19. Chapter V.—*Recruiters.*—Section 20.)

(d) enquire into the treatment received by the return-emigrants both during the period of their service in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government; and

(e) aid and advise the return-emigrants so far as he reasonably can.

Appointment
of Medical
Inspector.

18. (1) The Local Government may, from time to time, appoint a Medical Inspector of Emigrants at each port from which emigration is lawful, and may suspend or remove him.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code¹.

XLV of 1860.

Protector
and Medical
Inspector to
have facili-
ties for
inspection.

19. Every Emigration Agent, and all persons in charge of, or employed in, any dépôt established under this Act², or in charge of, or employed in, any emigrant-vessel, shall give the Protector of Emigrants and the Medical Inspector of Emigrants every facility for making such inspections, examinations and surveys as are required by this Act or by the rules made under this Act, or as those officers may deem necessary or proper, and shall afford them all such information as they may reasonably require.

CHAPTER V.

RECRUITERS.

Protector
of Emigrants
to license
recruiters.

20. (1) The Protector of Emigrants at each of the ports from which emigration is lawful shall, on the application of the Emigration Agent for any country to which emigration is lawful, grant licenses to

¹ For Act XLV of 1860 see the revised edition, as modified up to the 1st May, 1896, published by the Legislative Department.

² See Chap. VII, *infra*, p. 22.

(Chapter V.—Recruiters.—Sections 21-23.)

to so many fit persons as to the Protector seems necessary to be recruiters of emigrants within the local area to which the authority of the Protector extends.

(2) A person shall not, unless he holds a license granted under this chapter,—

- (a) enter into, or attempt to enter into, any agreement with any person purporting to bind him to emigrate, or
- (b) in consideration of any hire or reward, induce, or attempt to induce, any person to leave any place for the purpose of emigrating, or
- (c) act or be employed in any other respect as a recruiter of emigrants.

(3) Every recruiter shall produce his license when called upon to do so by any Magistrate or officer in charge of a police-station.

21. Every license granted under this chapter shall specify the particular country for which, and the local area within which, the holder is licensed to recruit, and may be in the form set forth in the second schedule hereto annexed. Form of license.

22. (1) A license granted under this Chapter shall not be in force for a longer period than one year from the day on which it comes into force. Duration of license.

(2) The Protector of Emigrants may, on the ground of misconduct, cancel any license granted by him under this Chapter before the expiration of the period for which it is in force.

23. (1) A recruiter shall not, in any place beyond the limits of a port from which emigration is lawful, enter, or attempt to enter, into any agreement with any person purporting to bind him to emigrate, or induce or assist, or attempt to induce or assist, any person to leave any place for the purpose of emigrating, or act or be employed in any other respect as a recruiter Counter-signature of license.

(Chapter V.—Recruiters.—Sections 24-26.)

recruiter of emigrants, unless his license bears the countersignature of the District Magistrate.

(2) If a District Magistrate has satisfied himself, after such enquiry as he thinks necessary, that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, he may refuse to countersign a recruiter's license.

(3) If a District Magistrate has satisfied himself, after such enquiry as aforesaid, that sufficient and proper accommodation has not been provided in a suitable place, or is not available, for such intending emigrants or emigrants as may be collected by the recruiter pending their registration or removal to the depôt at the port of embarkation, he may refuse to countersign a recruiter's license or to decide whether he will countersign his license until after the expiration of such time as may in his opinion be reasonable.

(4) Before a Magistrate refuses to countersign, or defers his countersignature of, a recruiter's license, he shall record in writing his reasons for so doing.

Power for
Magistrate
to cancel
countersigna-
ture in cer-
tain cases.

24. If any Magistrate, having countersigned a recruiter's license, afterwards finds reason to think that the licensee is, by character or from any other cause, unfitted to be a recruiter under this Act, or that the accommodation provided for intending emigrants or emigrants collected by him has become unsuitable or has ceased to be available, he may require the licensee to produce his license, and may cancel the countersignature on it, or may impound the license and send it for cancellation to the Protector of Emigrants who granted it.

Notice to
Protector of
Emigrants of
countersigna-
ture, refusal
to counter-
sign or can-
cellation of
countersigna-
ture.
Recruiter to
be supplied

25. When a Magistrate countersigns, or refuses to countersign, a recruiter's license, or cancels the countersignature on it, he shall at once report the countersignature, or the refusal or cancellation, and the grounds of the refusal or cancellation, to the Protector of Emigrants who granted the license.

26. (1) The Emigration Agent on whose applica-
tion

(Chapter V.—Recruiters.—Section 27.)

tion any recruiter is licensed shall supply the recruiter with a written or printed statement, signed by the Agent, and countersigned by the Protector of Emigrants, of the terms of agreement which the recruiter is authorised to offer on behalf of the Agent to intending emigrants.

with statement of terms of agreement he is authorised to offer.

(2) The statement shall be both in English and in the Vernacular language or languages of the local area within which the recruiter is licensed to recruit.

(3) The recruiter shall give a true copy of the statement to every person whom he invites to emigrate, and shall produce the statement for the information of any Magistrate or officer in charge of a police-station, when called upon to do so by the Magistrate or officer.

27. (1) Every recruiter shall provide sufficient and proper accommodation in a suitable place for such intending emigrants or emigrants as may be collected by him pending their registration or removal to the port of embarkation.

Accommodation to be provided by recruiters.

(2) The place where the accommodation is provided shall have a board fixed in some conspicuous position specifying the purpose for which the place is used.

(3) Every District Magistrate, and any subordinate Magistrate or officer of Police authorised in this behalf by a rule made under this Act, shall have, for the supervision and regulation of the places where accommodation is provided under this section, the same powers as are by this Act¹ conferred on a Protector of Emigrants in respect of depôts at the port of embarkation.

(4) All recruiters or other persons in charge of these places shall afford every Magistrate and any officer of Police authorised as aforesaid in this behalf every facility for visiting and inspecting them.

CHAPTER

¹ See Chap. VII, *infra*, p. 22.

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.—Sections 28-31.)

CHAPTER VI.

REGISTRATION OF EMIGRANTS AND EXECUTION OF AGREEMENTS TO EMIGRATE.

Power for
Local Gov-
ernment to
appoint Re-
gistering
Officers.

28. The Local Government may, from time to time, appoint any person, by name or by virtue of his office, to perform in a specified local area, but subject to the control of the District Magistrate or such other officer as the Local Government appoints, by name or by virtue of his office, in this behalf, the functions of a Registering Officer under this Act.

Execution of
agreements.

29. Every agreement to emigrate entered into by any person must,—

(a) if executed within the limits of any port from which emigration is lawful, be executed in the presence of the Protector ;

(b) if executed elsewhere, be executed in the presence of a Registering Officer.

Appearance
of intending
emigrants
before Regis-
tering
Officer.

30. Every recruiter who desires to engage any person to emigrate shall appear before a Registering Officer or the Protector of Emigrants (as the case may be) with that person, and with any persons intending to accompany that person as his dependents.

Examination
and registra-
tion of emi-
grant.

31. (1) The Registering Officer or Protector shall thereupon examine the person, apart from the recruiter, with reference to his intended agreement ; and, if it appears that he is competent and willing to enter into the agreement and understands its nature, that he has not been induced to enter into it by any coercion, undue influence, fraud, misrepresentation or mistake, [and]¹ that its terms are in conformity with law, and are such as, according to the statement furnished to the recruiter under section 26, he was authorised to offer, shall, subject to the provisions of section

33,

¹ Inserted by Act XVIII of 1890, s. 1.

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.—Sections 32-34.)

33, register in a book to be kept for the purpose, in such form as the Governor General in Council, from time to time, by rules made under this Act, prescribes, the name, sex, name of the father, caste, occupation and age of the intending emigrant, and the name of the village or place of which he is a resident, and such other particulars (if any) concerning him and his dependents (if any) as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

32. (1) Notwithstanding anything contained in the last foregoing section, the Registering Officer or Protector may refuse to register any married woman under that section if he finds that her husband does not consent to her emigrating.

Power to refuse registration case of married women

(2) The Registering Officer or Protector may also, in the case of any woman whom he believes to be married, refuse to decide whether he will register her until after the expiration of such time, not exceeding ten days, as he thinks fit.

33. (1) When any person appears before a Registering Officer or Protector under section 30 as a dependent of an intending emigrant, the Registering Officer or Protector shall, if the person is able to give intelligent answers to questions, examine him, apart from the recruiter, as to his dependence on the intending emigrant whom he is about to accompany, and as to his willingness to emigrate.

Examination of dependents

(2) Where the Registering Officer or Protector sees reason to doubt the existence of the dependence or willingness, he may, if he thinks fit, refuse to register the intending emigrant, unless the name of the dependent is omitted from the register.

34. Whenever the Registering Officer or Protector refuses to register any intending emigrant, he shall record his reasons for the refusal.

Record of reasons for refusal to register.

35. (1) When

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.—Sections 35-36.)

Execution
and attesta-
tion of agree-
ment.

35. (1) When the particulars concerning any intending emigrant and his dependents (if any) have been registered, the Registering Officer or Protector shall cause an agreement to be prepared in duplicate,¹ and shall call on the recruiter and the intending emigrant to execute the agreement in duplicate¹ in his presence, and, if they execute it, shall attest the execution with his signature.

(2) An agreement to emigrate shall not be of any effect until the particulars concerning the intending emigrant and his dependents (if any) have been registered, and the agreement has been executed and attested under this Act.

(3) When the particulars concerning any intending emigrant and his dependents (if any) have been registered and an agreement has been executed and attested under this Act, the intending emigrant shall be deemed to be registered under this Act as an emigrant.

[(4)² Any number of intending emigrants appearing with the same recruiter before the Registering Officer or Protector at the same time, and desiring to emigrate on the same terms to the same country, may, with the permission of the Registering Officer or Protector (as the case may be), execute one instrument of agreement under this section, instead of each of such intending emigrants executing a separate instrument.]

Contents of
agreement.

36. Every agreement to emigrate shall contain a copy of the particulars registered concerning the intending emigrant and his dependents (if any) under section 31, and on the reverse such particulars concerning the nature, duration and term of service and

the

¹ The words "in duplicate" were substituted for the words "in triplicate" by Act XVIII of 1890, s. 2 (1).

² Added by Act XVIII of 1890, s. 2 (2).

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.—Sections 37-39.)

the remuneration of the emigrant, and such other matters (if any) as the Governor General in Council from time to time, by rules made under this Act, prescribes.

[37.¹ When the agreement has been executed and attested—

Record of registrations and agreements.

(a) one of the copies thereof shall be delivered to the emigrant, and the other shall be retained by the Protector or sent by the Registering Officer to him, and

(b) a certified copy of the particulars registered under section 31 concerning the emigrant or emigrants by whom the agreement was executed, and concerning his or their dependents (if any), shall be delivered to the recruiter for transmission to the Emigration Agent.]

38. For the preparation of every agreement under this Chapter the recruiter or Emigration Agent shall pay such fee as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes :²

Fee for preparation of agreement.

Provided that the Governor General in Council may at any time, by like notification, declare that the fee payable under this section shall be consolidated, either generally or in any specified local area, with the fee payable under section 73.

[X of 1872.

39. Notwithstanding anything to the contrary in the Indian Contract Act, 1872³, it shall be lawful for any person of the age of sixteen years or upwards to enter in manner in this Act provided into an

Power to make agreement if over 16.

agreement

¹ Substituted by Act XVIII of 1890, s. 3.

² See Notifications No. 121-E., dated the 1st April, 1886—Gazette of India, 1886, Part I, p. 277 ; and No. 7-E., dated 29th March, 1888—Gazette of India, 1888, Part I, p. 147.

³ For Act IX of 1872 see the revised edition, as modified up to the 1st May, 1896, published by the Legislative Department.

(Chapter VI.—Registration of Emigrants and Execution of Agreements to emigrate.—Section 40. Chapter VII.—Emigration Depôts.—Sections 41-42.)

agreement to emigrate to any place to which emigration is lawful.

Power to make agreement on behalf of child or ward.

40. Any person entering into an agreement to emigrate, and being the parent or guardian of a child under the age of sixteen years and above the age of ten years, may, in the name of and on behalf of the child, enter into an agreement in manner in this Act provided binding the child to emigrate with him.

CHAPTER VII.

EMIGRATION DEPÔTS.

Depôts to be established at ports of embarkation.

41. Every Emigration Agent shall establish at the port for which he is appointed a suitable depôt for the reception and lodging of emigrants before embarkation for the country for which he is Emigration Agent, and shall provide all necessary food and clothing for all emigrants during their stay at the depôt.

Licensing of depôts.

42. (1) A depôt established under the last foregoing section shall not be used for the reception and lodging of emigrants until it has been inspected and approved by the Protector of Emigrants and the Medical Inspector of Emigrants, and a license for its use has been granted by the Protector.

(2) A license under this section shall not be granted for a longer period than one year from the day on which it comes into force.

(3) The Protector of Emigrants may at any time cancel a license under this section—

(a) if he considers that the depôt for which it was granted is unhealthy, or has in any respect become unsuitable for the purpose for which it was established, or

(b)

Chapter VII.—Emigration Depôts.—Sections 43-45.
Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival.—Section 46.)

(b) if the Emigration Agent fails, after reasonable notice, to comply with any of the requirements of this Act or of the rules made under this Act.

43. The Protector of Emigrants and the Medical Inspector shall, from time to time, and at least once in every week during which any emigrants may be kept in any depôt at the port for which they are Protector and Medical Inspector, respectively, inspect the emigrants in that depôt and examine the state of the depôt and the manner in which the emigrants therein are lodged, fed, clothed and otherwise provided for and attended to.

Inspection
by Protector
and Medical
Inspector.

44. The Medical Inspector shall report to the Protector of Emigrants any circumstance that may come to his knowledge showing that any depôt is not suitable for its purpose, or that the emigrants lodged therein are treated with any oppression or neglect.

Report by
Medical
Inspector.

45. (1) The Medical Inspector may, if he thinks fit, direct that any emigrant suffering from any disease likely to be dangerous to his neighbours shall be isolated or excluded from the depôt.

Treatment
of emigrant
suffering
from disease.

(2) The Medical Inspector may, if he thinks fit, order the removal of any emigrant so suffering to a proper hospital for treatment at the expense of the Emigration Agent; and the expense (if any) incurred by the Protector of Emigrants in respect of the removal of the emigrant and his treatment in the hospital shall be recoverable from the Emigration Agent by the Protector of Emigrants, with interest thereon at the rate of six per centum per annum from the date on which the expense was incurred.

CHAPTER VIII.

CONVEYANCE OF EMIGRANTS TO DEPÔTS AND PROCEDURE ON ARRIVAL.

46. A recruiter shall not remove or attempt to remove

Emigrant not
to be removed

(Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival.—Sections 47-49.)

before registration.

remove any intending emigrant to a depôt, or induce or attempt to induce him to go to a depôt, or to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned, or aid him in going to a depôt, or in leaving any such local limits, until the intending emigrant has been registered under this Act as an emigrant.

Conveyance of emigrant to depôt.

47. (1) Every emigrant must, after he has been registered under this Act, be conveyed with all convenient despatch, by or under the orders of the recruiter or Emigration Agent, to the depôt established at the port of embarkation by the Emigration Agent on whose application the recruiter has been licensed.

(2) When an emigrant has been registered at a place beyond the limits of the port of embarkation, he must, while proceeding to the depôt, be accompanied throughout the journey either by the recruiter himself, or by a competent person appointed by him with the approval of a Magistrate.

(3) The Magistrate shall give to the person so appointed a certificate signed by him stating that he has been appointed for the journey to the depôt.

(4) The recruiter or the person so appointed shall, throughout the journey, provide the emigrant with proper and sufficient food and lodging.

Report of arrival at depôt.

48. The arrival at a depôt of each emigrant must immediately be reported by the person in charge of the depôt to the Emigration Agent, and by the Agent to the Protector of Emigrants.

Examination by Medical Inspector.

49. (1) The copy of the particulars registered under section 31¹ received by the recruiter from the Registering Officer or Protector must, as soon as conveniently may be after the arrival of the emigrant at the depôt, be shown by the Emigration Agent to the Medical Inspector of Emigrants.

(2) The

¹ The words and figures "particulars registered under section 31" were substituted for the word "agreement" by Act XVIII of 1890, s. 4.

(Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival.—Section 50.)

(2) The Medical Inspector shall examine each emigrant entered in the said copy¹ to ascertain whether he is fit, having regard to his age and state of health, to undertake the journey to the country to which he has agreed to emigrate.

(3) The Medical Inspector, if satisfied of his fitness, shall give a certificate to that effect to the Emigration Agent. If not so satisfied, he shall give a certificate to that effect to the Protector of Emigrants.

50. (1) In any of the following cases, namely :—

(a) if the Medical Inspector of Emigrants finds that an emigrant is, or has become, unfit to undertake the journey to the country to which he has agreed to emigrate, and if the Protector of Emigrants considers that the emigrant has not dishonestly represented himself as fit to undertake the journey, or

(b) if the Protector finds that any such irregularity has occurred in the recruitment or treatment by the recruiter of any emigrant as makes it just to rescind the agreement to emigrate, or

(c) if the Emigration Agent refuses to fulfil the agreement entered into with the emigrant,

the Protector may order the Emigration Agent to pay to the emigrant such sum as the Protector deems reasonable as compensation, and, when the emigrant has been registered at a place beyond the limits of the port of embarkation, such reasonable sum as is necessary to enable him to return to the place at which he was registered, and may take any steps which he thinks necessary for the conveyance of the emigrant to that place.

(2) Any emigrant who has been registered at any place

Power for Protector to order payment of expenses of return of emigrant in certain cases.

¹ The words "said copy" were substituted for the word "agreement" by Act XVIII of 1890, s. 4.

(Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival.—Sections 51-52.)

place beyond the limits of the port of embarkation, and who from his state of health is, in the opinion of the Medical Inspector of Emigrants, unfit to undertake at once the return-journey to the place at which he was registered, shall be entitled to be fed, lodged, clothed and attended to at the depôt at the expense of the Emigration Agent until he is reported by the Medical Inspector fit to undertake the return-journey.

Payment of expenses of dependents and relatives.

51. (1) When any order is made under the last foregoing section with reference to any emigrant who was registered at any place beyond the limits of the port of embarkation, any emigrant who has been registered as his dependent,

or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, shall be entitled—

(a) to be conveyed at the expense of the Emigration Agent with the emigrant to the place at which he was registered; and

(b) if the emigrant is unable to travel, to be lodged, fed and clothed in the depôt at the expense of the Emigration Agent until the emigrant is able to travel.

(2) The Protector of Emigrants may include any expenses incurred under this section in an order made under the last foregoing section with respect to the emigrant.

Compensation to emigrant for ill-treatment on journey.

52. If it appears that during the journey to the depôt any emigrant has suffered any ill-treatment, or that, in the case of any emigrant who has been registered at a place beyond the limits of the port of embarkation, the provisions of section 47 have not been complied with, the Protector of Emigrants may order the Emigration Agent to pay—

(a) to the emigrant a reasonable sum by way of compensation, and,

(b) if

(Chapter VIII.—Conveyance of Emigrants to Depôts and Procedure on Arrival.—Section 53. Chapter IX.—Emigrant-vessels.—Sections 54-55.)

- (b) if any expenses have been incurred by or under the orders of the Protector on behalf of the emigrant by reason of the neglect to comply with the provisions of section 47, to the Protector the expenses so incurred.

53. (1) On failure of the Emigration Agent for twenty-four hours to comply with an order of the Protector for the payment of any sum to an emigrant under any of the last three foregoing sections, the Protector may pay the same to the emigrant.

Power for Protector to pay and recover expenses incurred on behalf of emigrant.

(2) Every sum paid by the Protector to an emigrant under sub-section (1), and, on failure of the Emigration Agent for twenty-four hours to comply with an order for payment thereof under the last foregoing section, every sum which the Protector may have ordered the Emigration Agent to pay to him under that section, shall be recoverable from the Emigration Agent with interest thereon at the rate of six per centum per annum from the date of payment.

(3) Further proof shall not be required by any Court in any such case than that the Protector gave the Emigration Agent an order to pay the sum, and that the Emigration Agent for twenty-four hours failed to comply with the order.

CHAPTER IX.

EMIGRANT-VESSELS.

54. It shall not be lawful to receive any emigrant on board any vessel unless a license to carry emigrants in the vessel has been obtained from the Local Government.

Master of emigrant-vessel to be licensed.

55. (1) When the master or owner of any vessel desires to obtain a license to carry emigrants in his vessel, he shall apply in writing through the

Application for license.

Protector

(Chapter IX.—Emigrant-vessels.—Section 56.)

Protector of Emigrants to the Local Government for the license.

(2) The application must state the number of emigrants which, according to the rules as to space contained in this Chapter, the applicant deems the vessel capable of carrying, and the tonnage and such other particulars respecting the vessel as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Survey and
licensing of
vessel.

56. (1) The Protector of Emigrants shall cause the vessel to be surveyed by a competent person at the cost of the master or owner, with a view to ascertain her seaworthiness, and the extent and nature of her accommodation for emigrants, and to ascertain that she is properly ventilated, and is supplied with all the tackle, apparel and furniture requisite for her intended voyage:

[¹ Provided that, if the vessel is a steam-ship having a certificate of survey granted by the Board of Trade or any British Colonial Government or under the Indian Steam-ships Act, 1884², and in force and applicable to her intended voyage, the survey under this sub-section with a view to ascertain her seaworthiness shall not extend to her hull or machinery unless the Protector of Emigrants has reason to believe that, since the grant of the certificate, her hull or machinery has sustained injury or damage or has otherwise become inefficient.]

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(2) If the Local Government is of opinion that the vessel is in all respects suitable for the carrying of emigrants under this Act, and is properly manned and officered, it shall give to the master of the vessel a license to carry emigrants therein specifying the number of emigrants which may be received on board.

57. (1) A

¹ Added by Act XVIII of 1890, s. 5.

² For Act VII of 1884 see the revised edition, as modified up to the 1st July, 1896, published by the Legislative Department.

(Chapter IX.—*Emigrant-vessels*.—Sections 57-60.)

57. (1) A license shall not be granted under the last foregoing section unless—

Accommodation required on board emigrant-vessel.

(a) there is provided for the emigrants, either between decks or, subject to the approval of the Protector of Emigrants and the Medical Inspector, in cabins on the upper deck, a space devoted to the exclusive use of the emigrants having in every part a height of not less than six feet;

(b) a separate place is fitted up for a hospital; and

(c) such arrangements are made for the separation of women (married or single) and children from the other emigrants as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

(2) The cabins on the upper deck provided under clause (a) of this section must be firmly secured and entirely covered in.

58. Every emigrant-vessel must contain within the space referred to in clause (a) of the last foregoing section at least twelve superficial feet and seventy-two cubic feet of space for each emigrant:

Rules as to space on board emigrant-vessel.

Provided that two emigrants under the age of ten years shall for the purposes of this section count as one only.

59. There must be on board every emigrant-vessel, at the time of departure of the vessel from the port at which they embark, provisions, clothing, fuel and water for the emigrants (over and above the supply for the master, officers and crew, and of the cabin and other passengers, if any), in such quantity and of such description and quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Provisions, clothing, fuel and water.

60. Every emigrant-vessel must, at the time of departure of the vessel from the port at which the

emigrants Surgeons, attendants, medicines and stores.

(Chapter IX.—*Emigrant-vessels*.—Sections 61-62.
Chapter X.—*Embarkation and Departure*.—Section 63.)

emigrants embark, have on board, and must carry with her, a properly qualified surgeon, and also such compounders, interpreters and attendants subordinate to the surgeon, and such medicines and other stores, in such quantity and of such quality as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

Duty of Protector and Medical Inspector with respect to enforcement of foregoing sections.
Bond to be executed by master of emigrant-vessel.

61. The Protector of Emigrants and the Medical Inspector of Emigrants shall see personally that all the provisions of the last two foregoing sections are complied with.

62. (1) Every master licensed under this Act shall on the requisition of the Protector of Emigrants, and before any emigrant embarks on board his vessel, execute to the Protector, in duplicate, a bond, in such form as the Local Government, from time to time, prescribes, binding himself and the owner of the vessel in a penal sum of ten thousand rupees, to perform the duties imposed by this Act or any rule made under this Act on a master and owner, respectively.

(2) The Protector of Emigrants shall forward one copy of the bond to such officer as may be appointed in this behalf by the Government of the country to which the emigrants are to be conveyed, or, in the case of a foreign colony, to the British Consular Agent, and the other copy to the Local Government.

CHAPTER X.

EMBARKATION AND DEPARTURE.

Time of embarkation after arrival.

63. An emigrant shall not embark, except with the permission of the Protector of Emigrants, until seven days have elapsed from the date of his arrival at the dépôt.

64. (1) An

(Chapter X.—*Embarkation and Departure.*—Sections 64-66.)

64. (1) An emigrant-vessel shall not sail from any port in British India—

Time at which emigrant-vessel may leave India.

(a) to any country west of the Cape of Good Hope, except at such seasons as the Governor General in Council, from time to time, by rules made under this Act, prescribes as seasons during which it shall be lawful for emigrant-vessels generally, or of a class to which the vessel belongs, to sail to that country ;

(b) to any country during any season which the Governor General in Council, from time to time, by notification in the Gazette of India, declares to be a season during which the sailing of emigrant-vessels to that country is prohibited.

65. If any emigrant without sufficient cause refuses or neglects to embark when called on by the Emigration Agent to do so, it shall not be lawful to compel the emigrant to embark ; but nothing in this section shall affect the civil or criminal liabilities which an emigrant incurs by reason or in respect of any such refusal or neglect.

Procedure if emigrant refuses to embark.

66. (1) When any emigrants are about to embark on board any vessel, the Emigration Agent shall supply the master of the vessel with four copies of a list, specifying, as accurately as may be, the names, ages and occupations of the emigrants, and the names of their respective fathers.

List of, and passes for, emigrants.

(2) The master shall not receive any emigrant on board unless he is provided with a pass, signed by the Emigration Agent, and countersigned by the Protector, stating the name and age of the emigrant, the name of his father, and the country to which he has agreed to emigrate, and certifying that he is in a fit state of health to undertake the voyage to that country.

(3) Every emigrant shall on embarkation deliver the pass to the master.

(4) The

(Chapter X.—*Embarkation and Departure.*—Sections 67-69.)

(4) The master shall compare the emigrants who embark and the passes delivered by them with the list supplied by the Emigration Agent; and, if the list appears to be correct and to correspond with the passes delivered and with the emigrants embarked, the master shall sign the four copies of the list.

(5) The master shall not permit any emigrant to remain on board who has not delivered up his pass to the master or is not mentioned in the list.

Disposal of the two copies of list to be given by master to Protector.

67. (1) When the copies of the list have been signed, the master shall give two of the copies to the Protector of Emigrants, who shall sign them if he believes them to be correct.

(2) The Protector shall send one of the copies so signed by him by the vessel which carries the emigrants to such officer as may be appointed in this behalf by the Government of the country to which the emigrants have agreed to emigrate, or, in the case of a foreign colony, to the British Consular Agent, and shall file the other copy in his own office.

Disposal of the two copies of list to be given by master to Emigration Agent.

68. (1) The master shall give to the Emigration Agent the two remaining copies of the list.

(2) The Emigration Agent shall thereupon sign the copies, and shall return one of them to the master.

(3) The master shall, on the arrival of the vessel at the country to which the emigrants have agreed to emigrate, and before their disembarkation, deliver the copy so returned to him to such officer as may be appointed in this behalf by the Government of the country, or, in the case of a foreign colony, to the British Consular Agent.

Examination of emigrants by Medical Inspector.

69. (1) The Medical Inspector shall be present at the embarkation of all emigrants, and shall examine each emigrant to ascertain if he is in a fit state of health to undertake the voyage to the country to which he has agreed to emigrate; and, if he finds

that

(Chapter X.—Embarkation and Departure.—Sections 71-72.)

that he is not fit to undertake the voyage, he shall inform the Protector accordingly.

(2) The Protector may thereupon refuse to permit the emigrant to embark; and any emigrant, registered as a dependent of an emigrant whom the Protector has refused to permit to embark, or any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of the emigrant, may, notwithstanding anything in this Act, refuse to embark.

(3) The provisions of sections 50, 51 and 53 shall apply to emigrants who under this section are not permitted to embark, and to any emigrants who under this section refuse to embark, and to the recovery of expenses incurred under this Act in respect of them.

70. [*Emigration Agent to deliver agreements to emigrate to master.*].—*Repealed by Act XVIII of 1890, section 6.*

71. Before any emigrant-vessel clears out of any port, the master of the vessel shall obtain from the Protector of Emigrants at the port, and from the Emigration Agent for the country to which the emigrants are to be conveyed, certificates, signed by the Protector and Emigration Agent, respectively, to the effect that the Protector and Agent have, in respect of all the emigrants embarking at that port in the vessel, done all that is required by the foregoing provisions of this Act, or by the rules made under this Act, to be done on the part of the Protector and Agent, respectively, and that all the directions for the security, well-being and protection of emigrants which are contained in this Act or in the rules made under this Act have, in the case of that vessel, been complied with.

Certificates from Protector of Emigrants and Emigration Agent.

72. The master of every emigrant-vessel shall keep on board the vessel during the whole voyage two copies of this Act, and of all rules made under this Act, and two copies of a translation of this Act, and

Copies of Act and rules to be kept on board.

of

(Chapter X.—*Embarkation and Departure.*—Sections 73-75.)

of those rules, in such language or languages as the Local Government directs, and shall, on request made at any reasonable time, produce one of those copies to any emigrant for his perusal.

Fee for each
embarked
emigrant.

73. For each emigrant who embarks on board an emigrant-vessel the Emigration Agent shall pay to the Protector of Emigrants a fee of such amount as the Governor General in Council, from time to time, by notification in the Gazette of India, prescribes :¹

Provided as follows :—

(a) the fee payable under this section shall not be more than is, in the opinion of the Governor General in Council, sufficient to raise the total income from fees under this Act to an amount which will cover the cost of any establishment or supervision which the Governor General in Council thinks necessary to provide for the control of emigration ;

(b) if it appears to the Governor General in Council expedient to provide, in the case of any country, any special establishment or expenditure for the protection of Indian emigrants to that country, the Governor General in Council may increase the fee payable in the case of emigrants to that country to an amount sufficient, in his opinion, to cover the cost of the special establishment or expenditure.

Duty of master to see to observance of Act and rules on board his vessel.

74. It shall be the duty of every master licensed under this Act to see that all the provisions of this Act and the rules made under this Act are observed on board his vessel during the voyage from British India to the country to which the emigrants are to be conveyed.

Return of pass to emigrant.

75. The master shall return his pass to each emigrant

¹ See foot-note to s. 38, *supra*, p. 21.

(Chapter X.—Embarkation and Departure.—Sections 76-79.)

grant before he disembarks in the country to which he has agreed to emigrate.

Special Provisions as to Vessels sailing from Calcutta.

76. The master of every vessel carrying emigrants from the port of Calcutta shall proceed on his voyage and depart with his vessel from Garden Reach within twenty-four hours after the embarkation of such of the emigrants as have first embarked.

Emigrant-vessel sailing from Calcutta to depart within twenty-four hours of embarkation.

77. Every sailing-vessel leaving the port of Calcutta with emigrants shall proceed from Garden Reach to sea under tow of a steamer declared to be competent by such officer as the Local Government appoints in this behalf.

Emigrant-vessel sailing from Calcutta to be towed to sea.

78. (1) When an emigrant-vessel leaves the port of Calcutta, if during her passage down the river, and while between Garden Reach and Diamond Harbour, the disease of measles, scarlet-fever or small-pox appears on board, the master shall, if so required by the surgeon in charge of the emigrants, send to the hospital at Diamond Harbour all emigrants suffering from the disease, with any emigrants registered as their dependents, and any emigrant who, not being a dependent, is the father, mother, wife, husband, son, daughter, brother, sister, guardian or ward of any such emigrant and who wishes to accompany him or her, and shall at once inform the Protector of Emigrants at Calcutta of the number and names of the emigrants so sent to hospital.

Power of surgeon of emigrant-vessel leaving Calcutta to require sick emigrants to be sent to hospital.

(2) The provisions of sections 50, 51 and 53 shall, so far as may be, apply to emigrants landed under this section, and to the recovery of expenses incurred in respect of them.

79. (1) In the event of cholera in an epidemic form appearing among the emigrants on board any such vessel carrying emigrants from the port of Calcutta, the surgeon in charge of the emigrants may require

Power of surgeon of emigrant-vessel leaving Calcutta to require all

(Chapter XI.—Rules.—Section 80.)

emigrants to
be landed
when cholera
appears.

require the master to land all the emigrants on board the vessel at Diamond Harbour.

(2) The master shall at once comply with the request of the surgeon, and shall immediately give notice of his having done so to the Protector of Emigrants at Calcutta, who shall take such action thereon as the Governor General in Council, from time to time, by rules made under this Act, prescribes.

CHAPTER XI.

RULES.

Power for
Governor
General in
Council to
make rules.

80. (1) The Governor General in Council may, from time to time, make rules¹ consistent with this Act—

- (a) to provide for the supervision and regulation of places of accommodation provided under this Act, and to define the classes of Magistrates and the officers of Police to be authorized to visit and inspect those places ;
- (b) to prescribe the form of the register required under this Act, and the particulars to be entered therein, and to regulate the control to be exercised over Registering Officers by the District Magistrate or officer (if any) appointed in this behalf under this Act ;
- (c) to prescribe the forms of the agreements to be made under this Act, and the particulars to be contained therein, and the language or languages in which agreements must be expressed ;
- (d) to prescribe the conditions on which licenses for the establishment of depôts under this Act may be given, to provide for the supervision

¹ For rules issued under this section, see Notification No. 94E., dated the 18th March, 1886, Gazette of India, 1886, Part I, p. 161. These rules have been amended and added to from time to time, but the amendments and additions are too numerous to be given here.

(Chapter XI.—Rules.—Section 80.)

vision and regulation of depôts, and for the medical care of the emigrants during their residence there, and the measures to be taken on the outbreak of any epidemic or infectious disease there ;

- (e) to prescribe the forms to be supplied by Emigration Agents and recruiters for the purposes of this Act ;
- (f) to prescribe the particulars which the owner or master of a vessel applying for a license to carry emigrants in his vessel must state ;
- (g) to regulate the proportion of women to be ordinarily carried in any emigrant-vessel with male emigrants, and to prescribe the arrangements to be made for the separation of women (married or single) and children from the other emigrants on board an emigrant-vessel ;
- (h) to prescribe the description, quantity and quality of provisions, fuel and water to be taken by emigrant-vessels, the daily allowance of food and water to be issued, and the nature and amount of clothing to be supplied to each emigrant during the voyage ;
- (i) to fix the number of the compounders, interpreters and attendants subordinate to the surgeon to be carried for the care of the sick or weakly on board each emigrant-vessel ;
- (j) to prescribe the nature, quantity and quality of medicines and other stores to be carried on board emigrant-vessels ;
- (k) to provide for the ventilation and cleanliness of every emigrant-vessel during a voyage, and for its being furnished with a sufficient number of life-buoys, boats, water-buckets

and

(Chapter XI.—Rules.—Section 81.)

and other appliances to be used in case of shipwreck or fire ;

- (l) to prescribe the seasons at which alone emigrant-vessels or specified classes of emigrant-vessels may sail from any port in British India to any country west of the Cape of Good Hope to which emigration is for the time being lawful ;
- (m) to provide for the disposal of emigrants who may be landed under section 79 ;
- (n) to provide for the medical care of the emigrants on the voyage, and to provide for the measures to be taken on the outbreak of any epidemic or infectious disease on a voyage ;
- (o) to provide for a journal being kept by the surgeon of every emigrant-vessel, recording the health of the emigrants, and his treatment of the sick, with full explanation of the causes of every death ; and to define the duties and powers of the surgeon in respect of the emigrants committed to his care ;
- (p) to define and regulate the powers and duties of the several officers appointed by the Government under this Act ; and
- (q) generally to provide for the security, well-being and protection of emigrants :

Provided that the Local Government may, in special cases, notwithstanding anything contained in rules made under clause (g) of this section, permit an emigrant-vessel to sail, though it does not carry the proportion of women required to be carried in ordinary cases.

(2) The power to make rules conferred by this section may be exercised at any time after the passing of this Act, but any rule made under this section shall not take effect until the Act comes into force.

Publication
of drafts and
rules.

81. (1) The Governor General in Council shall, before making rules under the last foregoing section, publish

(Chapter XII.—Offences.—Section 82.)

publish a draft of the proposed rules in such manner as may, in his opinion, be sufficient for the information of persons likely to be affected thereby.

(2) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(3) The Governor General in Council shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(4) Every rule made under the last foregoing section shall be published in the Gazette of India, and the publication in the Gazette of India of a rule purporting to be made under that section shall be conclusive evidence that it has been duly made.

CHAPTER XII.

OFFENCES.

82. (1) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,— Unlawful recruiting.

- (a) makes, or attempts to make, any agreement with any Native of India, purporting to bind him to emigrate, or
- (b) in consideration of any hire or reward, induces, or attempts to induce, any Native of India to leave any place for the purpose of emigrating, or otherwise acts or is employed as a recruiter of emigrants, or
- (c) in consideration of any hire or reward, receives into or detains in any place, or, being a recruiter, in any place other than a place in which accommodation has been provided in accordance with this Act or the rules made under this Act, any person with a view to his being registered as an emigrant, or
after

(Chapter XII.—Offences.—Sections 83-84.)

after his registration as an emigrant and before his departure for the depôt at the port of embarkation,

shall be punished with fine which may extend to five hundred rupees.

(2) If any person, other than a recruiter licensed under this Act, commits an offence under this section, any Police-officer may arrest him without warrant.

Recruiters
removing
unregistered
emigrants to
depôt.

83. Whoever, being a recruiter licensed under this Act,—

(a) removes, or attempts to remove, any intending emigrant to a depôt before he has been registered under this Act as an emigrant, or induces, or attempts to induce, him to leave the local limits of the jurisdiction of the Magistrate by whom the recruiter's license has been countersigned before he has been so registered, or aids, or attempts to aid, him in leaving any such local limits or going to any depôt before he has been so registered, or

(b) fails to give a true copy of the statement with which he is provided under section 26 to any person whom he invites to emigrate, or

(c) fails to provide any emigrant whom he has engaged, and who has been registered at a place beyond the limits of the port of embarkation, with suitable lodging and food, or otherwise ill-treats any emigrant on his journey to the depôt,

shall be punished with fine which may extend to five hundred rupees.

Fraudulently
inducing Na-
tive to emi-
grate.

84. (1) Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any Native of India to emigrate, or to enter into any agreement to emigrate, or to leave any place

(Chapter XII.—Offences.—Sections 85-87.)

place with a view to emigrating, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

85. Whoever, without lawful authority, issues any written order to the Police to assist himself or any other person to procure emigrants, or falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

False representation of Government authority.

86. If any master of a vessel—

- (a) knowingly receives on board his vessel any emigrant who has not complied with the provisions of this Act or the rules made under this Act, so far as they are binding on him, or,
- (b) not being licensed under this Act, knowingly receives any emigrant on board his vessel, or
- (c) being licensed under this Act, knowingly receives on board his vessel any emigrant in excess of the number specified in his license,

Receiving emigrants on board vessel in contravention of Act.

he shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees for each emigrant so received, or with both; and the vessel, her tackle, apparel and furniture, may be declared by the Court before which the master is tried to be forfeited to Her Majesty.

87. If any master licensed under this Act fraudulently does, or suffers to be done, any act or thing whereby the license becomes inapplicable to the altered state of the vessel or other matter to which the license relates, he shall be punished with fine which may extend to five thousand rupees,

Fraudulent acts on part of master.

and

(Chapter XII.—Offences.—Sections 88-92.)

and he may also be sued on any bond which he may have executed under section 62.

Clearance
without com-
pliance with
Act.

88. If any master of an emigrant-vessel clears, or attempts to clear, his vessel outwards when any of the provisions of section 57, 59 or 60 have not been complied with in respect of his vessel, he shall be punished with fine which may extend to four thousand rupees.

Failure of
master to
comply with
provisions as
to lists and
passes.

89. If any master receives on board his vessel any emigrants and fails to comply with the requirements of sections 66, 67 and 68 in respect of those emigrants, he shall be punished with fine which may extend to two hundred rupees for each emigrant so received on board.

Master tak-
ing on board,
after clear-
ance, emi-
grants not
entered in
list.

90. If any master, having cleared his vessel, takes on board any emigrant not entered in the list mentioned in section 66 or not furnished with a pass required by that section, he shall be punished with fine which may extend to two hundred rupees for each emigrant so taken.

Master land-
ing emigrant
at other than
specified
country.

91. If any master lands any emigrant in any country other than the country for which he has been shipped by the Emigration Agent, he shall be punished for every emigrant so landed with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both, unless the landing has been caused by stress of weather or unavoidable accident, or has taken place under the provisions of section 78 or 79.

Failure to
comply with
provisions as
to leaving
Calcutta.

92. If any master of a sailing-vessel leaving the port of Calcutta with emigrants on board—

- (a) does not leave Garden Reach with his vessel within the time prescribed in section 76, or
- (b) without reasonable excuse, causes or allows his vessel to go below Garden Reach without being in tow of such a steamer as is referred to in section 77,

he shall be punished with fine which may extend to one thousand rupees.

93. (1) If

(Chapter XII.—Offences.—Sections 93-96.)

93. (1) If any emigrant deserts before arrival at depôt, or refuses without reasonable cause to proceed to the depôt, he shall be punished with fine which may extend to twenty rupees, or to the cost incurred in entering into an agreement with, registering and conveying him to the depôt, whichever is greater, and, in default of payment of the fine, with imprisonment which may extend to one month.

Emigrant deserting or refusing to proceed to depôt.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

94. (1) If any emigrant—

(a) deserts from the depôt, or

(b) without reasonable cause, refuses or neglects to embark when called upon to do so by the Emigration Agent,

Emigrant deserting from depôt or failing to embark.

he shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or to double the amount of the cost incurred in entering into an agreement with, registering and conveying him to the depôt, and maintaining him therein, or with both.

(2) Any fine levied under this section may, in the discretion of the convicting Magistrate, be paid to the Emigration Agent or recruiter by whom the cost was incurred.

95. If any person causes, or if any master knowingly permits, any emigrant to embark contrary to the provisions of section 63, he shall be punished with fine which may extend to two hundred rupees for each emigrant so embarked.

Causing, or permitting, embarkation of emigrant in contravention of section 63.

96. (1) Prosecutions under sections 86 to 95 (both inclusive) shall not be instituted except as follows, namely:—

Institution of prosecutions.

(a) prosecutions under sections 86 to 92, both inclusive, by the Emigration Agent, or by the Protector of Emigrants, or by an officer appointed

(Chapter XII.—Offences.—Sections 97-98. Chapter XIII.—Supplemental.—Section 99.)

appointed for the purpose by the Local Government;

- (b) prosecutions under section 93, by or with the sanction of a Magistrate or Registering Officer or of the Protector of Emigrants at the port of embarkation;
- (c) prosecutions under section 94, by the Emigration Agent with the sanction of the Protector;
- (d) prosecutions under section 95, by the Protector of Emigrants or by an officer appointed for the purpose by the Local Government.

Defence to charges of desertion.

97. The following shall be good defences to charges under sections 93 and 94, respectively, namely :—

- (a) to a charge under section 93, that the accused person or other emigrants accompanying him has or have been ill-treated, deceived or defrauded by the recruiter or any person under his control;
- (b) to a charge under section 94, that the emigrant has suffered any ill-treatment or neglect in the depôt or on the journey thither.

Power for Customs-officers to search and detain for purposes of Act.

98. All the powers for the time being conferred by law¹ on officers of sea-customs with regard to the searching and detention of vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

CHAPTER XIII.

SUPPLEMENTAL.

Power for Local Government to

99. The Local Government may, from time to time, appoint any person, by name or by virtue of his

¹ See Chap. XVII of the Sea Customs Act, 1878 (VIII of 1878), a revised edition of which, as modified up to the 1st July, 1891, has been published by the Legislative Department.

(Chapter XIII.—Supplemental.—Sections 100-102.)

his office, to perform within a specified local area the functions of a Magistrate under this Act.

appoint Magistrates for purposes of Act.
Suits against Emigration Agent for breach of duty.

100. (1) Whenever an Emigration Agent is chargeable with a breach of any duty to an emigrant arising from any agreement with the emigrant or imposed by this Act or the rules made under this Act, the Protector of Emigrants may, if he thinks fit, institute a suit on behalf of the emigrant against the Emigration Agent for the recovery of compensation for the breach.

(2) In awarding compensation under this section all sums ordered to be paid under section 50 or section 52 shall be taken into consideration.

101. (1) The Governor General in Council may, from time to time, by notification in the Gazette of India, determine what shall be held to be, for the purposes of this Act, the probable length of the voyages by sailing-vessels and vessels using steam-power, respectively, from any port from which, to any country to which, emigration is for the time being lawful.

Power for Governor General in Council to determine probable lengths of voyages for purposes of Act.

(2) Until otherwise determined under this section, the probable length of the voyage by sailing-vessels from the ports mentioned in the third schedule hereto annexed, to the countries mentioned in that schedule, shall be deemed to be the lengths stated in that schedule.

102.¹ (1) On and from such a date as the Governor General in Council may, by notification in the Gazette of India, fix in this behalf with respect to any protected Native State adjoining the Straits Settlements,² or with

Provision supplementary to section 6 (1) of this Act.

¹ This section was enacted in substitution for the original section 102 (as amended by Act XXI of 1884) by Act XVIII of 1890, section 7. For saving of notifications, see *ibid.*, s. 8.

² A Native of India departing by sea under an agreement to labour for hire in (1) the Protected Native States of Perak, Selangor, Sungai Ujong and Johore, (2) the Protected Native States of Negri, Sembilan and Pahang, (3) from Negapatam to British North Borneo or Labuan and (4) from Negapatam to the State of Sarawak, has been declared not to emigrate within the meaning of the Act—see Notifications Nos. 119-2, 27-E., 154-15-9-E., Nos. 1153-5—13-E. and 411—46-10-E., dated respectively 1st April, 1886, 27th September, 1889, 11th June, 1891, and 25th March, 1897—Gazette of India, 1886, 1889, 1891 and 1897, Part I, pp. 277, 526, 320 and 239, respectively.

(Chapter XIII.—Supplemental.—Section 103.)

with respect to any country¹ for labour in which Natives of India are recruited exclusively through the agency of the Government of the Straits Settlements, a Native of India who departs by sea out of British India under an agreement to labour for hire in any such State or country² shall not, so long as the notification continues to apply to the State or country,² be deemed to emigrate within the meaning of this Act.

(2) The Governor General in Council may, by notification in the Gazette of India, declare that from a date to be specified, a notification under sub-section (1) shall no longer apply to a Native State or country² therein mentioned.

103. The provisions of this Act shall apply to emigration from British Indian ports—

Application
of Act to
emigration
from British
ports to
French and
Dutch colo-
nies.

(a) to the French colonies, under the terms of the Convention executed at Paris on the first day of July, 1861, and ratified at the same place on the thirtieth day of July, 1861, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French; and

(b) to the Netherlands colony of Dutch Guiana under the terms of the Convention executed at the Hague on the eighth day of September, 1870, and ratified at the same place on the seventeenth day of February, 1872, between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the King of the Netherlands :

—Provided that, in any case in which there is any conflict between the provisions of this Act and those contained

¹ The word "country" was substituted for the words "British Colony or possession" by the Indian Emigration Act Amendment Act, 1897 (VII of 1897).

² The words "State or country" were substituted for the words "State, colony or possession" by the Indian Emigration Act Amendment Act, 1897 (VII of 1897), s. 2.

(Chapter XIII.—Supplemental.—Sections 104-105.)

contained in either of those Conventions, the latter shall prevail.

104. The provisions of this Act shall, so far as they relate to proceedings which are to be conducted in British India, apply, in the case of Natives of India who depart by sea from a French port in India under an agreement to labour for hire in a French colony, under the Convention between Her Majesty the Queen of the United Kingdom of Great Britain and Ireland and His Majesty the Emperor of the French referred to in the last foregoing section, as if such Natives were emigrants within the meaning of this Act :

Application of Act to proceedings in British India connected with emigration from French ports in India to French colonies.

Provided that, in any case in which there is any conflict between the provisions of this Act and those contained in that Convention, the latter shall prevail.

105. (1) The departure by land out of British India of a Native of India under, or with a view to entering into, an agreement¹ to labour for hire in some country beyond the sea other than the Island of Ceylon or the Straits Settlements is prohibited :

Prohibition of departure by land of a Native of India under an agreement to labour for hire in some country beyond the sea.

Provided that nothing in this section applies to the departure by land—

(a) of a domestic servant when accompanying his employer ;

(b) of a Native of India for the purpose of departing by sea from a French port in India under an agreement to labour for hire in a French colony in accordance with the Convention referred to in section 103, clause (a), and section 104.²

(2) Whoever induces, or attempts to induce, any Native of India to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under section 82:—

106. The

¹ The words "under, or with a view to entering into, an agreement" were substituted for the words "under a contract" by Act I of 1896, s. 1.

² The words and figures "section 103, clause (a), and section 104" were substituted for the word and figures "section 102" by Act XVIII of 1890, s. 9.

(Chapter XIII.—Supplemental.—Section 106. Schedule I.—Countries to which Emigration is lawful.)

Power to declare whole or part of Act and rules inapplicable to Natives of India engaged for Her Majesty's Government to labour for hire in any country beyond the sea.

[106.¹ The Governor General in Council may, from time to time, by notification in the Gazette of India, declare that all or any of the provisions of this Act or the rules thereunder shall not apply, or shall apply subject to such conditions, modifications or restrictions as to the Governor General in Council may seem expedient, in the case of Natives of India departing out of British India under an agreement made with, or on behalf of, Her Majesty's Government to labour for hire in any country beyond the sea :²

Provided that no notification under this section shall be issued unless the Governor General in Council is first satisfied that the fair treatment of Natives of India so departing out of British India has, by rules or otherwise, duly been secured.]

SCHEDULE I.

(See section 8.)

COUNTRIES TO WHICH EMIGRATION IS LAWFUL.

- I.—The British Colonies of Mauritius, Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, Natal, St. Kitts, Nevis and Fiji.
- II.—The French colonies of Martinique, Guadeloupe and its dependencies, and Guiana.³
- III.—The Netherlands colony of Dutch Guiana.
- IV.—The Danish colony of St. Croix.

SCHEDULE II.

¹ Added by Act I of 1896, s. 2.

² The provisions of the Act have, under this section, been declared not to apply to labourers engaged in connection with the railway from Mombassa to Victoria Nyanza—see Notifications Nos. 93—2-10 and 569—2-15, dated, respectively, the 17th January, and the 18th April, 1896—Gazette of India, 1896, Part I, pages 34 and 274, respectively.

³ Emigration to these French colonies has been prohibited—see footnote to s. 9 on page 10, *supra*.

(Schedule III.—*Probable Lengths of Voyage under this Act.*)

SCHEDULE III.

(See section 101.)

PROBABLE LENGTHS OF VOYAGE¹ UNDER THIS ACT.

FROM CALCUTTA —

To Mauritius	{ From the month of April to the month of October, both inclusive, ten weeks; and from the month of November to the month of March, both inclusive, eight weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	{ Twenty weeks.

To Natal	Twelve weeks.
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To Fiji	Eighteen weeks.
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FROM MADRAS—

To Mauritius	{ From the month of April to the month of October, both inclusive, seven weeks; and from the month of November to the month of March, both inclusive, six weeks.

To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana.	{ Nineteen weeks.

To Natal	Ten weeks.
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To Fiji	Seventeen weeks.
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FROM BOMBAY—

¹ By sailing-vessel—see s. 101 (2), *supra*.

(Schedule III.—Probable Lengths of Voyage under
this Act.)

FROM BOMBAY —

To Mauritius	.	.	.	.	} From the month of April to the month of September, both inclusive, five weeks ; and from the month of Octo- ber to the month of March, both inclusive, six weeks.
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To Jamaica, British Guiana, Trinidad, St. Lucia, Grenada, St. Vincent, St. Kitts, Nevis, St. Croix, French Guiana, Martinique, Guadeloupe and its dependencies, and Dutch Guiana,	}	Nineteen weeks.
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To Natal Ten weeks.

To Fiji Seventeen weeks.

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✓

DIVISION

ACT NO. VIII OF 1896.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 5th March, 1896.*)

:

An Act to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses.

WHEREAS it is expedient to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses; It is hereby enacted as follows:—

1. (1) This Act may be called the Inland Bonded Warehouses Act, 1896.

Title, construction and commencement.

(2) It shall be read with, and taken as part of, the
VIII of 1878. Sea Customs Act, 1878; and

(3) It shall come into force at once.

2. Sections 5 to 7, both inclusive, of this Act shall extend only to such parts of British India as the Governor General in Council may from time to time, by notification in the Gazette of India, direct in this behalf.

Extent.

Inland Bonded Warehouses.

XI of 1887. 3. (1) The Inland Bonded Warehouses Act, 1887, is hereby repealed.

Repeal.

II of 1896. (2) The reference to that Act in section 3, clause (7), of the Cotton Duties Act, 1896, shall be read as if it were made to this Act.

4. (1) Notwithstanding

[*Price two annas.*]

Inland Bonded Warehouses. [ACT VIII

Inland bonded warehouses and law applicable thereto.

4. (1) Notwithstanding anything contained in the Sea Customs Act, 1878, the Chief Customs-authority VIII of 1878-4 may from time to time, with the previous sanction of the Local Government, appoint a public or license a private warehouse at any place which is not a warehousing port, and may with the like sanction cancel such appointment or license.

(2) In reference to such a place and a warehouse appointed or licensed thereat the provisions of the said Act with respect to the levy of customs-duties on goods brought in bond from one customs-port to another, and with respect to warehousing, shall be construed as if the place were a customs-port and a warehousing port, and the warehouse a public or a private warehouse, as the case may be, appointed or licensed thereat under that Act.

(3) All rules applicable to such warehouses, and to the weightment and removal thereto of salt, and in force at the commencement of this Act, shall remain so applicable until they shall be duly superseded or altered.

(4) Every warehouse appointed or licensed under the provisions of the Inland Bonded Warehouses Act, XXI of 1887, shall be deemed to have been appointed or licensed under this Act.

Salt Time-Bonds.

Conveyance of salt to inland bonded warehouses under bonds.

5. Notwithstanding anything contained in the Sea Customs Act, 1878, or in section 4 of this Act, the Chief Customs-authority may permit salt removed VIII of 1878-4 from ship board or from a warehouse appointed or licensed under the Sea Customs Act, 1878, to be conveyed, under a bond securing the subsequent payment of the duty leviable in respect of the salt so removed and in accordance with such rules as may be prescribed in this behalf by the Local Government, to a warehouse appointed or licensed for that purpose by the Chief Customs-authority.

Form of bond.

6. Every bond executed in accordance with the provisions of the last preceding section shall be in the form

form hereto annexed, or, when such form is inapplicable or insufficient, in such other form as is from time to time prescribed by the Chief Customs-authority :

Provided that the time allowed by such bond for the payment of the duty leviable on the salt included therein shall not exceed the time within which it may reasonably be expected that the whole of such salt shall have passed into consumption, and shall in no case exceed six months :

Provided, also, that the Chief Customs-authority may at any time require the duty to be paid to the extent to which the salt may have been delivered from the warehouse.

7. The Local Government may, with the previous sanction of the Governor General in Council, make rules, consistent with the provisions of this Act, to regulate— Power to make rules.

- (1) the appointment or licensing of warehouses under section 5 ;
- (2) the inspection by Government officers of such warehouses ;
- (3) the safe custody of salt in transit under the provisions of the said section ;
- (4) the removal of salt from a warehouse appointed or licensed under the said section ;
- (5) the nature of the security to be required from a person executing a bond in accordance with the provisions of the said section and the time and place of payment of the sum recoverable under such bond ; and
- (6) generally such other matters as may be deemed necessary to secure the safety of the public revenue.

8. Nothing in section 5 or section 6 shall prevent the removal of salt in any manner in which it may for the time being be lawfully removeable under section 4. Saving.

FORM

FORM OF BOND.

(See section 6.)

No. 189 .

We, A. B.,

now of

; and C. D.,

, of the same place, are jointly and severally bound to Her Majesty's Secretary of State for India in Council in the sum of Government rupees to be paid to the said Secretary of State in Council, for which payment we jointly and severally bind ourselves and our legal representatives.

(Date)

(Signed)

The above bounden , having applied to the officer in charge of the Custom-house at for and obtained permission to lodge in a warehouse appointed or licensed under the Inland Bonded Warehouses Act, 1896, and situated at

, for a period of months, the following goods, that is to say, maunds of salt imported by sea from on board of the ship and entered in the Custom-house books as No. of the Register of goods imported by sea ;

The condition of this bond is that

If the said or their legal representatives shall observe all the rules prescribed under the said Inland Bonded Warehouses Act, 1896, to be observed by the owners of goods warehoused and persons obtaining permission to warehouse goods under the provisions thereof ;

And if the said or their legal representatives shall pay to the officer in charge of the Custom-house at the port of , or to the Collector of , all dues, including customs-duties or other lawful charges, which shall be demandable on the said salt or on account of penalties incurred

incurred in respect thereto, within from the date of this bond, together with interest on every such sum at the rate of six per cent. per annum from the date of demand thereof being made in writing by the said officer in charge of the Custom-house ;

And if, within the term so fixed or such further period (if any) as may be granted by the Chief Customs-authority for the payment thereof, the full amount of all customs-duties and other lawful charges, penalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt ;

This obligation shall be void.

Otherwise, and on breach or failure in the performance of any part of this condition, the same shall be in force.

(Date)

(Signed) (

No. 422
8/6/97

ACT No. XXI OF 1896.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 17th
December, 1896.)

An Act to amend the Indian Paper Currency Act, 1882.

WHEREAS it is expedient to authorise an increase of the amount which may be invested in securities of the Government of India out of the coin and bullion received for currency notes under the law relating to the Government paper currency; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Paper Currency Act Amendment Act, 1896; and

Short title
and com-
mencement.

(2) It shall come into force at once.

XX of 1882.

2. Section 19 of the Indian Paper Currency Act, 1882, as amended by Act No. XV of 1890 (*an Act to amend the Indian Paper Currency Act, 1882*), shall be read as if for the words "eighty millions" the words "one hundred millions" were substituted.

Amendment
of section 19,
Act XX,
1882.

3. Act No. XV of 1890 (*an Act to amend the Indian Paper Currency Act, 1882*) is repealed, but not so as to affect the validity of anything heretofore done in pursuance of the provisions of that enactment.

Repeal of Act
XV, 1890.

[Price One Anna.]

N^o 530
11/11/98
✓

ACT No. VIII OF 1898.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*Received the assent of the Governor General on the
15th July, 1898.*

An Act to amend the Indian Paper Currency Act, 1898.

II of 1898. **WHEREAS** it is expedient to amend the Indian Paper Currency Act, 1898; It is hereby enacted as follows :—

1. (1) This Act may be called the Indian Paper Currency Act Amendment Act, 1898; and Short title and commencement.
(2) It shall come into force at once.

II of 1898. 2. Sub-section (3) of section 1 of the Indian Paper Currency Act, 1898, is hereby repealed and the following is substituted therefor, namely :— Amendment of section 1, Act II, 1898.

“(3) It shall remain in force for two years and six months from the commencement thereof.”

[Price one anna.]

S R No 9-
24 11 900



ACT NO. VIII OF 1900.

796

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 29th June, 1900.)

An Act to amend the Indian Paper Currency Act, 1882, as amended by the Indian Paper Currency Act, 1898.

of 1882.
f 1898. WHEREAS it is expedient to amend the Indian Paper Currency Act, 1882, as amended by the Indian Paper Currency Act, 1898; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Paper Currency Act, 1900.

Short title
and com-
mencement.

(2) It shall come into force at once.

(3) It shall remain in force for two years from the commencement thereof.

XX of 1882.
I 2
2. For section 13A of the Indian Paper Currency Act, 1882, the following section shall be substituted, namely:—

Substitution
of a new
section for
section 13A,
Act XX of
1882.

~~13A. (1) If the Secretary of State for India shall consent to hold in gold coin or gold bullion the equivalent in value to notes issued in India as a reserve to secure the payment of such notes, the Governor General in Council may from time to time direct that currency notes shall be issued to an amount equal to the value of gold so held by the Secretary of State for India at the rate fixed by section 12 of the Indian Coinage Act, 1870.~~

Gold coin or
bullion held
as a reserve
by Secretary
of State.

LXIII of
870.

(2) If the Secretary of State for India shall transmit the gold held by him under sub-section (1) or any part thereof in the form of gold coin or gold bullion to the Government of India, the coin or bullion so transmitted shall, when received by the Government

Gold, if
transmitted
to India, to
form part of
reserve.

of

[Price one anna six pies.]

of India, form part of the currency reserve under section 19.

Transmission
of silver
bullion by
Secretary of
State.

(3) If the Secretary of State for India shall think it expedient to expend the gold coin or bullion held by him under sub-section (1) or any other funds at his disposal in the purchase of silver bullion and to transmit the same to India for currency purposes, then—

(a) the silver bullion so purchased shall, until rupees are added to the currency reserve under clause (b) of this sub-section, be held as security for currency notes; and

(b) the Government of India shall, on receiving such silver bullion, give directions for coining the same into rupees as soon as convenient, and shall add to the currency reserve a number of the rupees so coined equal in value, at the rate fixed by section 12 of the Indian Coinage Act, 1870, to the price of the silver bullion so purchased and transmitted as aforesaid. XXIII of 1870.

Purchase of
silver by
Government
of India.

(4) (a) Nothing in this Act shall be deemed to prohibit the Government of India from expending any gold coin or gold bullion held as part of the currency reserve under section 19 in the purchase of silver bullion.

(b) The silver bullion so purchased shall, until rupees are added to the currency reserve under clause (c) of this sub-section, take the place of the gold so expended as security for the currency notes issued.

(c) On receiving such silver bullion, the Government of India shall give directions for coining the same into rupees as soon as convenient, and shall add to the currency reserve under section 19 a number of the rupees so coined equal in value, at the rate fixed by section 12 of the Indian Coinage Act, 1870, to the gold so expended by the Government of India. XXIII of 1870.

Gold held as
reserve by
Secretary

(5) If the Government of India shall appropriate and set apart in India as a part of the currency reserve

1900.]

Indian Paper Currency.

reserve under section 19 an amount of coin of the Government of India equal in value to any notes issued under this section, the gold held by the Secretary of State for India as a reserve to secure the payment of such notes shall be dealt with as the Secretary of State shall direct.

of State
may be re-
placed by
coin added
to reserve
in India.

(6) Coin or bullion held by the Secretary of State or in transit to India, or in the custody of the Mint Master during coinage, shall be separately shown in the abstract of accounts made up under section 27."

Account.

II of 1898.

VIII of 1898

3. The Indian Paper Currency Act, 1898, and the Indian Paper Currency Act Amendment Act, 1898, are hereby repealed.

Repeal.

No. 426
8/6/97

ACT No. I OF 1897.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th
January, 1897.)

An Act to amend Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*).

WHEREAS it is expedient to amend Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*); It is hereby enacted as follows :—

1. The said Act XXXVII of 1850 may be called the Public Servants (Inquiries) Act, 1850. Title of Act XXXVII, 1850.

2. In the preamble to the said Act, after the word "removable" the words "from their appointments" shall be inserted, and for the words "the East India Company" the word "India" shall be substituted. Amendment of preamble to Act XXXVII, 1850.

3. In section 2 of the said Act, for the words "the East India Company, not removable from his office without the sanction of the same Government," the words "the Government, not removable from his appointment without the sanction of the Government," shall be substituted. Amendment of section 2, Act XXXVII, 1850.

4. For section 23 of the said Act the following section shall be substituted, namely :— Substitution of new section for section 23, Act XXXVII, 1850.

"23. The powers of the Government under this Act may in all cases be exercised by the Governor General in Council, and when the person accused can be removed from his appointment by the Local Government, those powers may also be exercised by the Local Government." Powers of Government under this Act by whom exercisable.

[Price one anna.]

No. 427
8/6/97

ACT No. III OF 1897.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 4th
February, 1897.)*

An Act to provide for the better prevention of
the spread of Dangerous Epidemic Disease.

WHEREAS it is expedient to provide for the
better prevention of the spread of dangerous
epidemic disease; It is hereby enacted as follows:—

1. (1) This Act may be called the Epidemic Dis-
eases Act, 1897.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of British India
(inclusive of Upper Burma, British Baluchistan, the
Santal Parganas and the Pargana of Spiti); and

(3) It shall come into force at once.

2. (1) When at any time the Governor General in Council is satisfied that India or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the Governor General in Council, if he thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take or require or empower any person to take such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as he shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

Power to take
special
measures and
prescribe
regulations
as to dangerous
epidemic
disease.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Governor General in Council may take measures and prescribe regulations for—

[Price one anna three pies.]

Dangerous Epidemic Disease. [ACT III, 1897.]

- (a) the inspection of any ship or vessel leaving, or arriving at, any port in British India and such detention thereof, or of any person intending to sail therein or arriving thereby, as may be necessary ; and
- (b) the inspection of persons travelling by railway or otherwise and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

(3) The Governor General in Council may, by general or special order, direct that all or any of the powers conferred by this Act may also be exercised by any Local Government with respect to the territories administered by it.

Penalty.

3. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code. XLV of 1860.

Protection
to persons
acting under
Act.

4. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Act.

No. 424 -
8/6/97

ACT No. IV OF 1897.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 4th
February, 1897.)*

An Act to provide for certain matters relating
to Fisheries in British India.

WHEREAS it is expedient to provide for certain
matters relating to fisheries in British India ; It
is hereby enacted as follows:—

1. (1) This Act may be called the Indian Fisher-
ies Act, 1897.

Title, extent
and com-
mencement.

(2) It extends to the whole of British India, ex-
cept Burma ; and

(3) It shall come into force at once.

I of 1887.

2. Subject to the provisions of sections 8 and 10
of the General Clauses Act, 1887, this Act shall be
read as supplemental to any other enactment for the
time being in force relating to fisheries in any part of
British India except Burma.

Act to be
read as sup-
plemental to
other Fisher-
ies Laws.

3. In this Act, unless there is anything repug-
nant in the subject or context,—

Definitions.

(1) “ fish ” includes shell-fish :

(2) “ fixed engine ” means any net, cage, trap or
other contrivance for taking fish, fixed in the soil or
made stationary in any other way : and

(3) “ private water ” means water which is
the exclusive property of any person, or in which
any person has for the time being an exclusive right
of fishery whether as owner, lessee or in any other
capacity.

Explanation.—Water shall not cease to be “ pri-
vate water ” within the meaning of this definition

by

[Price one anna nine pies.]

by reason only that other persons may have by custom a right of fishery therein.

Destruction
of fish by ex-
plosives in
inland waters
and on coasts.

4. (1) If any person uses any dynamite or other explosive substance in any water with intent thereby to catch or destroy any of the fish that may be therein, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) In sub-section (1) the word "water" includes the sea within a distance of one marine league of the sea-coast: and an offence committed under that sub-section in such sea may be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such coast.

Destruction
of fish by
poisoning of
waters.

5. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two months, or with fine which may extend to two hundred rupees.

(2) The Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may in like manner modify or cancel any such notification.

Protection of
fish in select-
ed waters by
rules of Local
Government.

6. (1) The Local Government may make rules for the purposes hereinafter in this section mentioned, and may by a notification in the official Gazette apply all or any of such rules to such waters, not being private waters, as the Local Government may specify in the said notification.

(2) The Local Government may also, by a like notification, apply such rules or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say:—

(a) the erection and use of fixed engines;

(b) the

- (b) the construction of weirs; and
- (c) the dimension and kind of the nets to be used and the modes of using them.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

(5) In making any rule under this section the Local Government may—

- (a) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in; and
- (b) provide for—
 - (i) the seizure, forfeiture and removal of fixed engines erected, or used, or nets used, in contravention of the rule, and
 - (ii) the forfeiture of any fish taken by means of any such fixed engine or net.

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

7. (1) Any police-officer, or other person specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant, arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6—

Arrest without warrant for offences under this Act.

- (a) if the name and address of the person are unknown to him, and
- (b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address if given.

(2) A

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained:

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention.

No. 449
10/9/97
✓

ACT No. VI OF 1897.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 4th March 1897.)

An Act to amend the Negotiable Instruments Act, 1881.

XXVI of 1881. WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881; It is hereby enacted as follows:—

1. (1) This Act may be called the Negotiable Instruments Act Amendment Act, 1897; and

Short title and commencement.

(2) It shall come into force at once.

2. To section 72 of the said Act the following words shall be prefixed, namely, "Subject to the provisions of section 84".

Amendment of section 72, Act XXVI of 1881.

3. For section 84 of the said Act the following section shall be substituted, namely:—

Substitution of new section for section 84, Act XXVI of 1881.

"84. (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

When cheque not duly presented and drawer damaged thereby.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The

[Price one anna three pies.]

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him."

Illustrations.

(a) A draws a cheque for Rs. 1,000, and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

No 480
22/12/97
✓

THE NEGOTIABLE INSTRUMENTS
ACT, 1881.

(ACT XXVI OF 1881.)

AS MODIFIED UP TO THE 1st AUGUST, 1897.

CALCUTTA:
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1897.

Price ten annas.

STATEMENT OF REPEALS AND AMENDMENTS.

SECTION 2 REPEALED	ACT XII OF 1891.
SECTION 7 AMENDED	ACT II OF 1885, SECTION 2.
SECTION 45A INSERTED	ACT II OF 1885, SECTION 3.
SECTION 61, NEW PARAGRAPH ADDED	ACT II OF 1885, SECTION 4.
SECTION 64, NEW PARAGRAPH ADDED	ACT II OF 1885, SECTION 4.
SECTION 72 AMENDED	ACT VI OF 1897, SECTION 2.
SECTION 84, NEW SECTION SUBSTITUTED	ACT VI OF 1897, SECTION 3.
SECTION 101, NEW PARAGRAPH ADDED	ACT II OF 1885, SECTION 5.
SECTION 104A INSERTED	ACT II OF 1885, SECTION 6.
SECTION 108, SECOND PARAGRAPH, REPEALED	ACT II OF 1885, SECTION 7.
SECTION 109 AMENDED	ACT II OF 1885, SECTION 8.
SECTION 113 AMENDED	ACT II OF 1885, SECTION 9.
CHAPTER XVII INSERTED	ACT II OF 1885, SECTION 10.
SCHEDULE REPEALED	ACT XII OF 1891. (THE FIRST SCHEDULE).

The following changes have been made in reprinting the Act :—

- (1) repealed matter has been omitted, and printed below in footnotes, explanatory notes being at the same time inserted ;
- (2) amendments have been inserted in their proper places, with explanatory foot-notes ;
- (3) some further foot-notes have been added for convenience of reference ;
- (4) the number and year of enactments referred to in the text have been noted in the inner margin ;
- (5) section numbers occurring in the text have been printed in figures instead of in words ;
- (6) the headings to the pages have been amplified.

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1881.]

ACT No. XXVI OF 1881.¹

[9th December, 1881.]

An Act to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

[As modified up to 1st August, 1897.]

WHEREAS it is expedient to define and amend the law relating to promissory notes, bills of exchange and cheques; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Negotiable Instruments Act, 1881: Short title.

It extends to the whole of British India; but nothing herein contained affects the Indian Paper Currency Act, 1882, section 25² or affects any local usage relating to any instrument in an oriental language: Provided that such usages may be excluded by any words in the body of the instrument which indicate an intention that the legal relations of the parties thereto shall be governed by this Act; and it shall come into force on the first day of March, 1882. Local extent.
Saving of usages relating to hunting, etc.

Commencement.

XX of 1882.

2. [Repeal

¹For the Statement of Objects and Reasons for the Bill which was passed into law as Act XXVI of 1881, see *Gazette of India*, 1887, p. 1336; for the Reports of the Select Committee, see *ibid.*, 1877, Pt. V, p. 321; 1878, Pt. V, p. 146; 1879, Pt. V, p. 75; 1881, Pt. V, p. 85; for discussions on the Bill, see *ibid.*, 1867, Supplement, p. 1031; 1881, Supplement, p. 1409.

This Act has been declared in force in the Town of Mandalay—See the Upper Burma Laws Act, 1886 (XX of 1886), s. 6, and second schedule, Second Part. It has also been extended under the Scheduled Districts Act, 1874, (XIV of 1874), to the whole of Upper Burma, see *Burma Gazette*, 1893, Pt. I, p. 154.

For summary procedure on Negotiable Instruments, see the Code of Civil Procedure, 1882 (Act XIV of 1882), Ch. XXXIX. For Act XIV of 1892, see the revised edition as modified up to 15th December, 1893, published by the Legislative Department.

²This reference has been substituted for the original reference by Act XX of 1882, s. 2. (For Act XX of 1892, see the revised edition, as modified up to 27th June, 1893, published by the Legislative Department.)

(Chapter I.—Preliminary.—Secs. 2-3. Chapter II.—
Of Notes, Bills and Cheques.—Secs. 4-5.)

2. [Repeal of enactments.] Repealed by the
Repealing and Amending Act, 1891 (XII of 1891).

3. In this Act—

“banker” includes also persons or a corporation
or company acting as bankers: and

“notary public” includes also any person ap-
pointed by the Governor General in Council to per-
form the functions of a notary public under this Act.

Interpret
tion-clau:

CHAPTER II.

OF NOTES, BILLS AND CHEQUES.

“Promissory
note.”

4. A “promissory note” is an instrument in
writing (not being a banknote or a currency-note)
containing an unconditional undertaking, signed by
the maker, to pay a certain sum of money only to,
or to the order of, a certain person, or to the bearer
of the instrument.

Illustrations.

A signs instruments in the following terms:

(a) “I promise to pay B or order Rs. 500.”

(b) “I acknowledge myself to be indebted to B in Rs. 1,000,
to be paid on demand, for value received.”

(c) “Mr. B, I O U Rs. 1,000.”

(d) “I promise to pay B Rs. 500 and all other sums which
shall be due to him.”

(e) “I promise to pay B Rs. 500, first deducting thereout
any money which he may owe me.”

(f) “I promise to pay B Rs. 500 seven days after my
marriage with C.”

(g) “I promise to pay B Rs. 500 on D’s death, provided D
leaves me enough to pay that sum.”

(h) “I promise to pay B Rs. 500 and to deliver to him my
black horse on 1st January next.”

The instruments respectively marked (a) and (b) are pro-
missory notes. The instruments respectively marked (c), (d),
(e), (f), (g) and (h) are not promissory notes.

“Bill of ex-
change.”

5. A “bill of exchange” is an instrument in writ-
ing containing an unconditional order, signed by the
maker

(Chapter II.—Of Notes, Bills and Cheques.—Secs. 6-7.)

maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.

A promise or order to pay is not "conditional," within the meaning of this section and section 4, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain.

The sum payable may be "certain," within the meaning of this section and section 4, although it includes future interest or is payable at an indicated rate of exchange, or is according to the course of exchange, and although the instrument provides that, on default of payment of an instalment, the balance unpaid shall become due.

The person to whom it is clear that the direction is given or that payment is to be made may be a "certain person," within the meaning of this section and section 4, although he is mis-named or designated by description only.

6. A "cheque" is a bill of exchange drawn on a "Cheque," specified banker and not expressed to be payable otherwise than on demand.

7. The maker of a bill of exchange or cheque is "Drawer." called the "drawer;" the person thereby directed to "Drawee." pay is called "the drawee."

When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a "drawee in case of need."

After the drawee of a bill has signed his assent "Acceptor." upon the bill, or, if there are more parts thereof than one, upon one of such parts, and delivered the same or given notice of such signing to the holder or to some person on his behalf, he is called the "acceptor."

[When

(Chapter II.—Of Notes, Bills and Cheques.—Secs. 8-11.)

"Acceptor for honour."

[When a bill of exchange has been noted or protested for non-acceptance or for better security]¹ and any person accepts it *supra protest* for honour of the drawer or of any one of the indorsers, such person is called an "acceptor for honour."

"Payee."

The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the "payee."

"Holder."

8. The "holder" of a promissory note, bill of exchange or cheque means any person entitled in his own name to the possession thereof and to receive or recover the amount due thereon from the parties thereto.

Where the note, bill or cheque is lost or destroyed, its holder is the person so entitled at the time of such loss or destruction.

"Holder in due course."

9. "Holder in due course" means any person who for consideration became the possessor of a promissory note, bill of exchange or cheque if payable to bearer,

or the payee or indorsee thereof, if payable to, or to the order of, a payee,

before the amount mentioned in it became payable, and without having sufficient cause to believe that any defect existed in the title of the person from whom he derived his title.

"Payment in due course."

10. "Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

Inland instrument.

11. A promissory note, bill of exchange or cheque drawn

¹ These words were substituted for the words "When acceptance is refused and the bill is protested for non-acceptance," by the Negotiable Instruments Act, 1885 (II of 1885), s. 2.

• (Chapter II.—Of Notes, Bills and Cheques.—Secs. 12-18.)

drawn or made in British India, and made payable in, or drawn upon any person resident in, British India, shall be deemed to be an inland instrument.

12. Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument. Foreign instrument.

13. A "negotiable instrument" means a promissory note, bill of exchange or cheque expressed to be payable to a specified person, or his order, or to the order of a specified person, or to the bearer thereof, or to a specified person or the bearer thereof. "Negotiable instrument."

14. When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated. Negotiation.

15.¹ When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser." Indorsement.

16. If the indorser signs his name only, the indorsement is said to be "in blank," and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full;" and the person so specified is called the "indorsee" of the instrument. Indorsement "in blank" and "in full." "Indorsee."

17. Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly. Ambiguous instruments.

18. If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid. Where amount is stated differently in figures and words.

19. A

¹ For an exception to s. 15 in the case of Government Securities, see the Indian Securities Act, 1886 (XIII of 1886), s. 6.

(Chapter II.—Of Notes, Bills and Cheques.—Secs. •
19-23.)

Instruments payable on demand.

19. A promissory note or bill of exchange, in which no time for payment is specified, and a cheque, are payable on demand.

Inchoate stamped instruments.

20. Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in British India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives *prima facie* authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount: Provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

"At sight."
"On presentment."
"After sight."

21. In a promissory note or bill of exchange the expressions "at sight" and "on presentment" mean on demand. The expression "after sight" means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance.

"Maturity."

22. The maturity of a promissory note or bill of exchange is the date at which it falls due.

Days of grace.

Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight or on presentment is at maturity on the third day after the day on which it is expressed to be payable.

Calculating maturity of bill or note payable so many months after date or sight.

23. In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds

(Chapter II.—Of Notes, Bills and Cheques.—Secs. 24-25.)

corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.

Illustrations.

(a) A negotiable instrument, dated 29th January, 1878, is made payable at one month after date. The instrument is at maturity on the third day after the 28th February, 1878.

(b) A negotiable instrument, dated 30th August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

(c) A promissory note or bill of exchange, dated 31st August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.

24. In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight or after a certain event is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.

Calculating maturity of bill or note payable so many days after date or sight.

25. When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding business day.

When day of maturity is a holiday.

Explanation.—The expression “public holiday” includes Sundays, New Year’s day, Christmas day: if either of such days falls on a Sunday, the next following Monday: Good Friday; and any other day declared by the Local Government, by notification in the Official Gazette, to be a public holiday.

CHAPTER III.

*(Chapter III.—Parties to Notes, Bills and Cheques.
—Secs. 26-29.)*

CHAPTER III.

PARTIES TO NOTES, BILLS AND CHEQUES.*

Capacity to
make, &c.,
promissory
notes, &c.

26. Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.

Minor.

A minor may draw, indorse, deliver and negotiate such instrument so as to bind all parties except himself.

Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.

Agency.

27. Every person capable of binding himself or of being bound, as mentioned in section 26, may so bind himself or be bound by a duly authorized agent acting in his name.

A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal.

An authority to draw bills of exchange does not of itself import an authority to indorse.

Liability of
agent sign-
ing.

28. An agent who signs his name to a promissory note, bill of exchange or cheque without indicating thereon that he signs as agent, or that he does not intend thereby to incur personal responsibility, is liable personally on the instrument, except to those who induced him to sign upon the belief that the principal only would be held liable.

Liability of
legal repre-
sentative
signing.

29. A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.

30. The

(Chapter III.—Parties to Notes; Bills and Cheques.
—Secs. 30-35.)

30. The drawer of a bill of exchange or cheque is bound, in case of dishonour by the drawee or acceptor thereof, to compensate the holder, provided due notice of dishonour has been given to, or received by, the drawer as hereinafter provided. Liability of drawer.

31. The drawee of a cheque having sufficient funds of the drawer in his hands, properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default. Liability of drawee of cheque.

32. In the absence of a contract to the contrary, the maker of a promissory note and the acceptor before maturity of a bill of exchange are bound to pay the amount thereof at maturity according to the apparent tenor of the note or acceptance respectively, and the acceptor of the bill of exchange at or after maturity is bound to pay the amount thereof to the holder on demand. Liability of maker of note and acceptor of bill.

In default of such payment as aforesaid, such maker or acceptor is bound to compensate any party to the note or bill for any loss or damage sustained by him and caused by such default.

33. No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance. Only drawee can be acceptor except in need or for honour.

34. Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority. Acceptance by several drawees not partners.

35. In the absence of a contract to the contrary, whoever indorses and delivers a negotiable instrument before maturity, without, in such indorsement, expressly excluding or making conditional his own liability, is bound thereby to every subsequent holder, in

case

(Chapter III.—Parties to Notes, Bills and Cheques.
—Secs. 36-39.)

case of dishonour by the drawee, acceptor or maker to compensate such holder for any loss or damage caused to him by such dishonour, provided due notice of dishonour has been given to, or received by, such indorser as hereinafter provided.

Every indorser after dishonour is liable as upon an instrument payable on demand.

Liability of prior parties to holder in due course.

36. Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.

Maker, drawer and acceptor principals.

37. The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.

Prior party a principal in respect of each subsequent party.

38. As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.

Illustration.

A draws a bill payable to his own order on B, who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor, and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.

Suretyship.

39. When the holder of an accepted bill of exchange enters into any contract with the acceptor which, under section 134 or 135 of the Indian Contract Act, 1872,¹ would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.

IX of 1872.

40. Where

¹ For Act IX of 1872, see the revised edition as modified up to 1st May, 1896, published by the Legislative Department.

(Chapter III.—Parties to Notes, Bills and Cheques.
—Secs. 40-43.)

40. Where the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.

Discharge of indorser's liability.

Illustration.

A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:—

First indorsement, "B."

Second indorsement, "Peter Williams."

Third indorsement, "Wright & Co."

Fourth indorsement, "John Rozario."

This bill A puts in suit against John Rozario and strikes out, without John Rozario's consent, the indorsements by Peter Williams and Wright & Co. A is not entitled to recover anything from John Rozario.

41. An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.

Acceptor bound although indorsement forged.

42. An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.

Acceptance of bill drawn in fictitious name.

43. A negotiable instrument made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without indorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto.

Negotiable instrument made, etc., without consideration.

Exception I.

(Chapter III.—Parties to Notes, Bills and Cheques.
—Secs. 44-45.)

Exception I.—No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation.

Exception II.—No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

Partial
absence or
failure of
money-con-
sideration.

44. When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

Explanation.—The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder.

Illustration.

A draws a bill on B for Rs. 500 payable to the order of A. B accepts the bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Rs. 400, and as an accommodation to the plaintiff as to the residue. A can only recover Rs. 400.

Partial
failure of
consideration
not consist-
ing of money.

45. Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral enquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer

(Chapter III.—Parties to Notes, Bills and Cheques.—
 Sec. 45 A. Chapter IV.—Of Negotiation.—
 Sec. 46.)

signer is entitled to receive from him is proportionally reduced.

[¹ 45 A. Where a bill of exchange has been lost before it is over-due, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again. Holder's right to duplicate of lost bill.

If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.]

CHAPTER IV. OF NEGOTIATION.

46. The making, acceptance or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive. Delivery.

As between parties standing in immediate relation delivery to be effectual must be made by the party making, accepting or indorsing the instrument, or by a person authorized by him in that behalf.

As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein.

A promissory note, bill of exchange or cheque payable to bearer is negotiable by the delivery thereof.

A promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof.

47. Subject

¹ S. 45 A was inserted by the Negotiable Instruments Act, 1895 (II of 1885),

(Chapter IV.—Of Negotiation.—Secs. 47-50.)

Negotiation by delivery.

47. Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof.

Exception.—A promissory note, bill of exchange or cheque delivered on condition that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens.

Illustrations.

(a) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated.

(b) A, the holder of a negotiable instrument payable to bearer, which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it.

Negotiation by indorsement.

48. Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to the order of a specified person, or to a specified person or order, is negotiable by the holder by indorsement and delivery thereof.

Conversion of indorsement in blank into indorsement in full.

49. The holder of a negotiable instrument indorsed in blank may, without signing his own name, by writing above the indorser's signature a direction to pay to any other person as indorsee, convert the indorsement in blank into an indorsement in full; and the holder does not thereby incur the responsibility of an indorser.

Effect of indorsement.

50. The indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation; but the indorsement may, by express words, restrict or exclude such right, or may merely constitute the indorsee an agent to indorse the instrument, or to receive

• (Chapter IV.—Of Negotiation.—Secs. 51-52.)

receive its contents for the indorser, or for some other specified person.

Illustrations.

B signs the following indorsements on different negotiable instruments payable to bearer:—

- (a) "Pay the contents to C only."
- (b) "Pay C for my use."
- (c) "Pay C or order for the account of B."
- (d) "The within must be credited to C."

These indorsements exclude the right of further negotiation by C.

- (e) "Pay C."
- (f) "Pay C value in account with the Oriental Bank."
- (g) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others."

These indorsements do not exclude the right of further negotiation by C.

51. Every sole maker, drawer, payee or indorsee, Who may or all of several joint makers, drawers, payees or in- negotiate, dorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded as mentioned in section 50, indorse and negotiate the same.

Explanation.—Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof.

Illustration.

A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument.

52. The indorser of a negotiable instrument may, Indorser who excludes his own liability or makes it conditional, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon

depend

(Chapter IV.—Of Negotiation.—Secs. 53-57.)

depend upon the happening of a specified event, although such event may never happen.

Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him.

Illustrations.

(a) The indorser of a negotiable instrument signs his name, adding the words—

“Without recourse.”

Upon this indorsement he incurs no liability.

(b) A is the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement “without recourse,” he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

Holder deriving title from holder in due course.

53. A holder of a negotiable instrument who derives title from a holder in due course has the rights thereon of that holder in due course.

Instrument indorsed in blank.

54. Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

Conversion of indorsement in blank into indorsement in full.

55. If a negotiable instrument, after having been indorsed in blank is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

Indorsement for part of sum due.

56. No writing on a negotiable instrument is valid for the purpose of negotiation if such writing purports to transfer only a part of the amount appearing to be due on the instrument; but, where such amount has been partly paid, a note to that effect may be indorsed on the instrument, which may then be negotiated for the balance.

Legal representative cannot by delivery only negotiate

57. The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill

(Chapter IV.—Of Negotiation.—Secs. 58-60.)

bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

instrument indorsed by deceased.

58. When a negotiable instrument has been lost or has been obtained from any maker, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, no possessor or indorsee who claims through the person who found or so obtained the instrument is entitled to receive the amount due thereon from such maker, acceptor or holder, or from any party, prior to such holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

Instrument obtained by unlawful means or for unlawful consideration.

59. The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor :

Instrument acquired after dishonour or when overdue.

Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted without consideration, for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party.

Accommodation note or bill.

Illustration.

The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds but indorsed the bill to A. A's title is subject to the same objection as the drawer's title.

60. A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

Instrument negotiable till payment or satisfaction.

CHAPTER V.

CHAPTER V.

OF PRESENTMENT.

Presentment
for accept-
ance.

61. A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

If the drawee cannot, after reasonable search, be found, the bill is dishonoured.

If the bill is directed to the drawee at a particular place, it must be presented at that place; and, if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured.

[¹ Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.]

Presentment
of promissory
note for sight.

62. A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can, after reasonable search, be found) by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default.

Drawee's
time for
deliberation.

63. The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee twenty-four hours (exclusive of public holidays) to consider whether he will accept it.

Presentment
for payment.

64. Promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor

¹ This paragraph was added by the Negotiable Instruments Act, 1885 (II of 1885), s. 4.

(Chapter V.—Of Presentment.—Secs. 65-71.)

acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder.

[¹ Where authorized by agreement or usage, a presentment through the post office by means of a registered letter is sufficient.]

Exception.—Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof.

65. Presentment for payment must be made during the usual hours of business, and, if at a banker's, within banking hours. Hours for presentment.

66. A promissory note or bill of exchange made payable at a specified period after date or sight thereof, must be presented for payment at maturity. Presentment for payment of instrument payable after date or sight.

67. A promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment of such presentment has the same effect as non-payment of a note at maturity. Presentment for payment of promissory note payable by instalments.

68. A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place. Presentment for payment of instrument payable at specified place and not elsewhere.

69. A promissory note or bill of exchange, made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place. Instrument payable at specified place.

70. A promissory note or bill of exchange not made payable as mentioned in sections 68 and 69, must be presented for payment at the place of business (if any), or at the usual residence, of the maker, drawee or acceptor thereof, as the case may be. Presentment where no exclusive place specified.

71. If the maker, drawee or acceptor of a negotiable instrument has no known place of business or fixed Presentment when maker, &c., has no fixed

¹ This paragraph was added by the Negotiable Instruments Act, 1885 (II of 1885), s. 4.

(Chapter V.—Of Presentment.—Secs. 72-76).

known place
of business
or residence.

fixed residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

Presentment
of cheque
to charge
drawer.

72. [¹ Subject to the provisions of section 84,] a cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

Presentment
of cheque to
charge any
other person.

73. A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

Presentment
of instrument
payable on
demand.

74. Subject to the provisions of section 31, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

Presentment
by or to
agent repre-
sentative of
deceased or
assignee of
insolvent.

75. Presentment for acceptance or payment may be made to the duly authorized agent of the drawee, maker or acceptor, as the case may be, or, where the drawee, maker or acceptor has died, to his legal representative, or, where he has been declared an insolvent, to his assignee.

When pre-
sentment
unnecessary.

76. No presentment for payment is necessary, and the instrument is dishonoured at the due date for presentment, in any of the following cases :—

(a) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument; or,

if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or,

if the instrument being payable at some other specified place, neither he nor any person authorized to pay it attends at such place during the usual business hours, or,

if the instrument not being payable at any specified place, he cannot after due search be found ;

(b) as

¹ These words and figures were inserted by the Negotiable Instruments Act Amendment Act, 1897 (VI of 1897), s. 2.

(Chapter V.—Of Presentment.—Sec. 77. Chapter VI.—Of Payment and Interest.—Secs. 78-80.)

(b) as against any party sought to be charged therewith, if he has engaged to pay notwithstanding non-presentment;

(c) as against any party if, after maturity, with knowledge that the instrument has not been presented—

he makes a part payment on account of the amount due on the instrument,

or promises to pay the amount due thereon in whole or in part,

or otherwise waives his right to take advantage of any default in presentment for payment;

(d) as against the drawer, if the drawer could not suffer damage from the want of such presentment.

77. When a bill of exchange accepted payable at a specified bank, has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

*Liability of-
banker for
negligently
dealing with
bill presented
for payment.*

CHAPTER VI.

OF PAYMENT AND INTEREST.

78. Subject to the provisions of section 82, clause (c), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.

*To whom
payment
should be
made.*

79. When interest at a specified rate is expressly made payable on a promissory note or bill of exchange, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the instrument, until tender or realization of such amount, or until such date after the institution of a suit to recover such amount as the Court directs.

*Interest
when rate
specified.*

80. When no rate of interest is specified in the instrument, interest on the amount due thereon shall, except

*Interest
when no rate
specified.*

(Chapter VI.—Of Payment and Interest.—Sec. 81. Chapter VII.—Of Discharge from Liability on Notes, Bills and Cheques.—Sec. 82.)

except in cases provided for by the Code of Civil Pro- XIV of 1882.
cedure, section 532, ¹ be calculated at the rate of six per centum per annum, from the date at which the same ought to have been paid by the party charged, until tender or realization of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.

Explanation.—When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.

Delivery of instrument on payment or indemnity in case of loss.

81. Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced to be indemnified against any further claim thereon against him.

CHAPTER VII.

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES.

Discharge from liability—

82. The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon—

by cancellation ;

(a) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder ;

by release ;

(b) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties

¹ For Act XIV of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Chapter VII.—Of Discharge from Liability on Notes, Bills and Cheques.—Secs. 83-84.)

- parties deriving title under such holder after notice of such discharge ;
- (c) to all parties thereto, if the instrument is payable by payment, to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

83. If the holder of a bill of exchange allows the drawee more than twenty-four hours, exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

Discharge by allowing drawee more than twenty-four hours to accept.

84. ¹(1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid.

When cheque not duly presented and drawer damaged thereby.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.

(3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him.

Illustrations.

¹ This Section was substituted for the original S. 84 by the Negotiable Instruments Act Amendment Act, 1897 (VI of 1897), s. 3.

The wording of the original section was as follows—"When the holder of a cheque fails to present it for payment within a reasonable time, and the drawer thereof sustains loss or damage from such failure, he is discharged from liability to the holder."

(Chapter VII.—Of Discharge from Liability on Notes, Bills and Cheques.—Secs. 85-86.)

Illustrations.

(a) A draws a cheque for Rs. 1,000, and, when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque.

(b) A draws a cheque at Umballa on a bank in Calcutta. The bank fails before the cheque could be presented in ordinary course. A is not discharged, for he has not suffered actual damage through any delay in presenting the cheque.

Cheque payable to order.

85. Where a cheque payable to order purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course.

Parties not consenting discharged by qualified or limited acceptance.

86. If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners, is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder they assent to such acceptance.

Explanation.—An acceptance is qualified—

- (a) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated ;
- (b) where it undertakes the payment of part only of the sum ordered to be paid ;
- (c) where, no place of payment being specified on the order, it undertakes the payment at a specified place, and not otherwise or elsewhere ; or where, a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere ;
- (d) where it undertakes the payment at a time other than that at which under the order it would be legally due.

87. Any

(Chapter VII.—Of Discharge from Liability on Notes, Bills and Cheques.—Secs. 87-90.)

87. Any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties ;

Effect of material alteration.

and any such alteration; if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof.

Alteration by indorsee.

The provisions of this section are subject to those of sections 20, 49, 86 and 125.

88. An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

Acceptor or indorser bound notwithstanding previous alteration.

89. Where a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered,

Payment of instrument on which alteration is not apparent.

or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated,

payment thereof by a person or banker liable to pay, and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon; and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

90. If a bill of exchange which has been negotiated is, at or after maturity, held by the acceptor in his own right, all rights of action thereon are extinguished.

Extinguishment of rights of action on bill in acceptor's hands.

CHAPTER VIII.

(Chapter VIII.—Of Notice of Dishonour.—Secs. 91-94.)

CHAPTER VIII.

OF NOTICE OF DISHONOUR. • •

Dishonour by
non-accept-
ance.

91. A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted.

Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

Dishonour by
non-pay-
ment.

92. A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill or drawee of the cheque makes default in payment upon being duly required to pay the same.

By and to
whom notice
should be
given.

93. When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon.

Nothing in this section renders it necessary to give notice to the maker of the dishonoured promissory note or the drawee or acceptor of the dishonoured bill of exchange or cheque.

Mode in
which notice
may be
given.

94. Notice of dishonour may be given to a duly authorised agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment,

that

• (Chapter VIII.—Of Notice of Dishonour.—Secs. 95-98.)

that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business or (in case such party has no place of business) at the residence of the party for whom it is intended.

If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

95. Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 93.

Party receiving must transmit notice of dishonour.

96. When the instrument is deposited with an agent for presentment, the agent is entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

Agent for presentment.

97. When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

When party to whom notice given is dead.

98. No notice of dishonour is necessary—

When notice of dishonour is unnecessary.

- (a) when it is dispensed with by the party entitled thereto;
- (b) in order to charge the drawer when he has countermanded payment;
- (c) when the party charged could not suffer damage for want of notice;
- (d) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it;
- (e) to charge the drawers when the acceptor is also a drawer;

(f) in

(Chapter IX.—Of Noting and Protest.—Secs.
99-101.)

- (f) in the case of a promissory note which is not negotiable ;
- (g) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

CHAPTER IX.

OF NOTING AND PROTEST.

Noting.

99. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each.

Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reasons, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges.

Protest.

100. When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest.

Protest for
better secu-
rity.

When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

Contents of
protest.

101. A protest under section 100 must contain—

- (a) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon ;

(b) the

(Chapter IX.—Of Noting and Protest.—Secs. 102-103.)

- (b) the name of the person for whom and against whom the instrument has been protested;
- (c) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a statement that he gave no answer, or that he could not be found;
- (d) when the note or bill has been dishonoured, the place and time of dishonour, and, when better security has been refused, the place and time of refusal;
- (e) the subscription of the notary public making the protest;
- (f) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected.

¹[A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk or, where authorized by agreement or usage, by registered letter.]

102. When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

103. All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment in the place specified for payment, unless paid before or at maturity.

104. Foreign

¹ This paragraph was added by the Negotiable Instruments Act, 1885 (II of 1885), s. 5.

(Chapter IX.—Of Noting and Protest.—Sec. 104.
Chapter X.—Of Reasonable time.—Secs. 105-107).

Protest of foreign bills. 104. Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

When noting equivalent to protest. [104 A. For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting.]

CHAPTER X.

OF REASONABLE TIME.

Reasonable time. 105. In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and, in calculating such time, public holidays shall be excluded.

Reasonable time of giving notice of dishonour. 106. If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour.

If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

Reasonable time for transmitting such notice. 107. A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits

¹ S. 104 A was inserted by the Negotiable Instruments Act, 1885 (II of 1885), s. 6.

(Chapter XI.—Of Acceptance and Payment for Honour and Reference in Case of Need.—Secs. 108-111.)

mits it within the same time after its receipt as he would have had to give notice if he had been the holder.

CHAPTER XI.

OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED.

108. When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.¹ * * * * *

Acceptance for honour.

109. A person desiring to accept for honour must, [² by writing on the bill under his hand] declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he names, or generally for honour.³ * * *

How acceptance for honour must be made.

110. Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.

Acceptance not specifying for whose honour it is made.

111. An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not: and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance.

Liability of acceptor for honour.

But

¹ Portion repealed by the Negotiable Instruments Act, 1885 (II of 1885), s. 7, has been omitted. That portion was as follows:—

“Unless the person who intends to accept *supra protest* first declares, in the presence of a notary, that he does it for honour and has such declaration duly recorded in the notarial register at the time, his acceptance shall be a nullity.”

² These words were substituted for the words “in the presence of a notary public subscribe the bill with his own hand and” by the Negotiable Instruments Act, 1885 (II of 1885), s. 8.

³ The words “and such declaration must be recorded by the notary in his register,” were repealed by the Negotiable Instruments Act, 1885 (II of 1885), s. 8.

(Chapter XI.—Of Acceptance and Payment for Honour and Reference in Case of Need.—Secs. 112-116. Chapter XII.—Of Compensation.—Sec. 117.)

But an acceptor for honour is not liable to the holder of the bill unless it is presented (or in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable), forwarded for presentment, not later than the day next after the day of its maturity.

When acceptor for honour may be charged. 112. An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment, and has been dishonoured by him, and noted or protested for such dishonour.

Payment for honour. 113. When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying¹ or his agent in that behalf] has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.

Right of payer for honour. 114. Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.

Drawee in case of need. 115. Where a drawee in case of need is named in a bill of exchange, or in any indorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.

Acceptance and payment without protest. 116. A drawee in case of need may accept and pay the bill of exchange without previous protest.

CHAPTER XII. OF COMPENSATION.

Rules as to compensation. 117. The compensation payable in case of dishonour

¹ These words were inserted by the Negotiable Instruments Act, 1885 (II of 1885), s. 9.

(Chapter XII.—Of Compensation.—Sec. 117.)

honour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee shall (except in cases provided for by the XIV of 1882. Code of Civil Procedure, section 532)¹ be determined by the following rules :—

- (a) the holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it ;
- (b) when the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places ;
- (c) an indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realization thereof, together with all expenses caused by the dishonour and payment ;
- (d) when the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places ;
- (e) the party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him, together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

CHAPTER XIII.

¹ For Act XIV of 1882 see the revised edition, as modified up to 15th December, 1888, published by the Legislative Department.

(Chapter XIII.—*Special Rules of Evidence.*—Secs. 118-119.)

CHAPTER XIII.

SPECIAL RULES OF EVIDENCE.

Presump-
tions as to
negotiable
instruments—
of consider-
ation;

118. Until the contrary is proved, the following presumptions shall be made;

- (a) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;
- as to date; (b) that every negotiable instrument bearing a date was made or drawn on such date;
- as to time of acceptance; (c) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity;
- as to time of transfer; (d) that every transfer of a negotiable instrument was made before its maturity;
- as to order of indorsement; (e) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon;
- as to stamp; (f) that a lost promissory note, bill of exchange or cheque was duly stamped;
- that holder is a holder in due course. (g) that the holder of a negotiable instrument is a holder in due course: Provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration the burthen of proving that the holder is a holder in due course lies upon him.

Presumption
on proof of
protest.

119. In a suit upon an instrument which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved.

120.. No

(Chapter XIII.—*Special Rules of Evidence.*—Secs. 120-122. Chapter XIV.—*Of Crossed Cheques.*—Secs. 123-125.)

120. No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

Estoppel against denying original validity of instrument.

121. No maker of a promissory note and no acceptor of a bill of exchange payable to, or to the order of, a specified person shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

Estoppel against denying capacity of payee to indorse.

122. No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

Estoppel against denying signature or capacity of prior party.

CHAPTER XIV.

OF CROSSED CHEQUES.

123. Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed generally.

Cheque crossed generally.

124. Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable," that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

Cheque crossed specially.

125. Where a cheque is uncrossed, the holder may cross it generally or specially.

Crossing after issue.

Where a cheque is crossed generally, the holder may cross it specially.

Where

(Chapter XIV.—Of Crossed Cheques.—Secs.
126-130.)

Where a cheque is crossed generally or specially, the holder may add the words "not negotiable."

Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection:

Payment of
cheque
crossed
generally.

126. Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

Payment of
cheque
crossed
specially.

Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

Payment of
cheque cross-
ed specially
more than
once.

127. Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

Payment in
due course of
crossed
cheque.

128. Where the banker on whom a crossed cheque is drawn has paid the same in due course, the banker paying the cheque, and (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

Payment of
crossed
cheque out of
due course.

129. Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Cheque bear-
ing "not
negotiable."

130. A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," shall not have, and shall not be capable

of

(Chapter XIV.—Of Crossed Cheques.—Sec. 131.

Chapter XV.—Of Bills in Sets.—Secs. 132-133.

Chapter XVI.—Of International Law.—Sec. 134.)

of giving a better title to the cheque than that which the person from whom he took it had.

131. A banker who has in good faith and without negligence received payment for a customer of a cheque crossed generally or specially to himself shall not, in case the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.

Non-liability of banker receiving payment of cheque.

CHAPTER XV.

OF BILLS IN SETS.

132. Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.

Set of bills.

Exception.—When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.

133. As between holders in due course of different parts of the same set he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

Holder of first acquired part entitled to all.

CHAPTER XVI.

OF INTERNATIONAL LAW.

134. In the absence of a contract to the contrary, the liability of the maker or drawer of a foreign promissory note, bill of exchange or cheque is regulated in

Law governing liability of maker, acceptor or

all

(Chapter XVI.—Of International Law.—Secs. 135-137.)

indorser of
foreign
instrument.

all essential matters by the law of the place where he made the instrument, and the respective liabilities of the acceptor and indorser by the law of the place where the instrument is made payable.

Illustration.

A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is indorsed in British India, and is dishonoured. An action on the bill is brought against B in British India. He is liable to pay interest at the rate of 6 per cent. only; but, if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent.

Law of place
of payment
governs dis-
honour.

135. Where a promissory note, bill of exchange or cheque is made payable in a different place from that in which it is made or indorsed, the law of the place where it is made payable determines what constitutes dishonour and what notice of dishonour is sufficient.

Illustration.

A bill of exchange drawn and indorsed in British India, but accepted payable in France, is dishonoured. The indorsee causes it to be protested for such dishonour, and gives notice thereof in accordance with the law of France, though not in accordance with the rules herein contained in respect of bills which are not foreign. The notice is sufficient.

Instrument
made, etc.,
out of British
India, but in
accordance
with its law.

136. If a negotiable instrument is made, drawn, accepted or indorsed out of British India, but in accordance with the law of British India, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or indorsement made thereon in British India.

Presumption
as to foreign
law:

137. The law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of British India, unless and until the contrary is proved.

CHAPTER XVII.

(Chapter XVII.—Notaries Public.—Secs. 138-139.)

CHAPTER XVII.

NOTARIES PUBLIC.

138. The Governor General in Council may, from time to time, by notification in the official Gazette, appoint any person, by name or by virtue of his office, to be a notary public under this Act and to exercise his functions as such within any local area, and may by like notification, remove from office any notary public appointed under this Act.

Power to appoint notaries public.

139. ² The Governor General in Council may, from time to time, by notification in the official Gazette, make rules consistent with this Act for the guidance and control of notaries public appointed under this Act, and may, by such rules (among other matters), fix the fees payable to such notaries.

Power to make rules for notaries public.

SCHEDULE.

[*Enactments repealed.*]

Repealed by the Repealing and Amending Act, 1891 (XII of 1891).

¹ Ch. XVII was inserted by the Negotiable Instruments Act, 1885 (II of 1885), s. 10.

² For rules under this section see Notification No. 1433, dated 30th September, 1886, *Gazette of India*, 1886, Pt. I, p. 548. On the extension of the Act to Upper Burma, similar rules were framed with respect to this Province—see Notification No. 489, dated 11th May, 1894, *Burma Gazette*, Pt. II, p. 109, printed Burma Rules Manual, Ed. 1897, p. 81.